

## GUIDANCE NOTE FROM THE INSPECTOR

### Introduction

1. This guidance note is intended to assist those who have made representations as part of the pre-submission consultation process and those who wish to appear in person. It concerns procedural and other aspects of the Examination process.

### The role of the Inspector

2. The Inspector's role is to determine whether the Settlements and Countryside Local Plan (Part 2) for Daventry District (the Plan) satisfies legal requirements under the 2004 Act and associated regulations, whether the Council has complied with the duty to co-operate and whether the Plan is sound. As the Plan was submitted before 24<sup>th</sup> January 2019, the Examination will be focussed on the tests of soundness as set out in paragraph 182 of the National Planning Policy Framework (the Framework), which was published on 27 March 2012. The relevant soundness criteria are whether the Plan is:
  - (a) **positively prepared** – based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;
  - (b) **justified** – the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;
  - (c) **effective** – deliverable over its period and based on effective joint working; and
  - (d) **consistent with national policy** – able to achieve sustainable development in accordance with the policies in the Framework.
3. The starting point for the Examination is the Plan as submitted, and that the Council submitted the Plan because it considers it to be sound. Those seeking changes must demonstrate why it is unsound by reference to one or more of the tests of soundness. In contrast, the Council should rely on its evidence collated whilst preparing the documents to demonstrate that the Plan is sound. Nonetheless, the Council, and other interested parties, will have the opportunity to put forward suggested changes to the Plan during the Examination in order to address matters of soundness or legal compliance. I will take these suggestions into account.
4. I will consider all of the representations made on the Submission version of the Plan insofar as they relate to legal requirements or matters of soundness. Unresolved issues concerning soundness or legal compliance may be addressed through discussion at the Examination hearings and through consideration of the original written representations. However, I am not required to report on every point made. Furthermore, in some cases, the issues I identify may not have been previously raised in the representations. It should be emphasised that my role is not to improve the Plan or to make it "more" sound but to determine whether or not it meets the soundness tests as it stands. For example, if an alternative version of a policy is put forward I cannot recommend it as an improvement if the Plan is already sound.

5. Part of my role is to examine the soundness of the sites that are allocated for development in the Plan as submitted, insofar as they are intended to meet the requirements of the West Northamptonshire Joint Core Strategy Local Plan (Part 1), adopted December 2014. Those who have submitted representations to the effect that a site is unsound will be able to put their views to me during a hearing session, if they have made a request to do so. The Council will have the opportunity to respond. Sites that have been put forward for inclusion in the Plan, but not selected for allocation by the Council, are known informally as "omission sites". It is not part of my role to examine the soundness of omission sites, and, subject to the legal right to be heard (see paragraph 6 below), such sites will not normally be discussed in detail at the hearing sessions. Should the situation arise that additional site(s) are needed (for example, because one or more of the allocated sites is found to be unsound), I will look to the Council in the first instance to decide which alternative site(s) should be brought forward for Examination.
6. Anyone can attend the hearing sessions, however the ability to speak is not available to all but is limited to either those with a legal right or those specifically invited by me. This is one of the differences of the Examination process compared to other planning procedures. Those that have made a valid representation seeking a change to the Submission version of the Plan (an objection) have the right to make their case in person at the hearing sessions, if they have indicated their wish to do so. It is important to stress however that written representations carry as much weight as evidence given at the hearing sessions.
7. Those who have made representations supporting the Plan do not have a right to participate at the hearing sessions. The Council has submitted the Plan for examination and I expect it to be able to set out and justify its own position. I do not consider it necessary for those who support the Plan to participate in hearing sessions.
8. Through the Programme Officer, I intend to work with the Council and the Examination participants in a proactive, pragmatic and solution-orientated manner. Those taking part should aim to be cooperative and respectful. It is however important to stress that I would not be able to rectify non-compliance with the duty to co-operate. Any modifications that I recommend would be limited to those required to address matters of legal compliance or soundness. Those would be known as the "main modifications". The main modifications would be subject to public consultation and sustainability appraisal prior to my report being finalised.
9. The Examination will close when my report is submitted to the Council. The potential outcomes of the Examination are:
  - a) If I find that the Council has complied with the duty to co-operate, and that the Plan satisfies the legal requirements and it is sound - I would recommend that the Plan is adopted and give reasons for this.
  - b) If I find that the Council has complied with the duty to co-operate but that the Plan does not satisfy legal requirements and/or is not sound, but is capable of being resolved by main modification(s) - I would make such recommendations and give reasons for this, as the Council has already

asked me to recommend modifications to address matters of legal compliance and/or soundness if required.

- c) If I find that the Council has not complied with one or more of the requirements listed in part a) and that such matters are not capable of being resolved by main modification(s) - I would recommend that the Plan is not adopted and give reasons for this.
10. My report is not binding on the Council, but it should amend the documents in the light of my recommendations before formal adoption. The Council would be able to make "additional modifications" to the Plan prior to adoption, provided these do not materially alter the policies or affect the soundness of the Plan, i.e. they are of a minor nature dealing with factual updates or typographical errors. This would be a matter entirely for the Council, I will not be considering such additional modifications during the examination and they will not form part of my report.
11. Further details of the examination process are set out in the Planning Inspectorate's publication Examining Local Plans: Procedural Practice. See **Annex A** for details of how to access this document.

### **The role of the Programme Officer**

12. The Programme Officer for the Examination is Mr Ian Kemp. He is entirely independent of the Council for the purposes of this Examination, has not been involved in the preparation of the Plan and he works under my direction. Mr Kemp can be contacted regarding the Examination on 01527 861711 or 07723 009166, by email at [ikemp@icloud.com](mailto:ikemp@icloud.com), or by post at 16 Cross Furlong, Wychbold, Droitwich Spa, Worcestershire, WR9 7TA.
13. The main tasks of the Programme Officer are to act as a channel of communication between myself and everyone involved; to liaise with all parties to ensure the smooth running of the Examination; to ensure that all documents received are recorded and distributed; and to keep the Examination Library up to date. Copies of the Examination documents are mainly to be found on the Council's web site (see below). A hard copy record will be held at the Council Offices prior to the hearings and at the hearing session venue whilst they are in progress; anyone interested in viewing any of the documents in person should contact Mr Kemp beforehand in order to ensure availability.
14. During the Examination, the Programme Officer will be able to tell you how closely the hearing sessions are following the circulated programme, or if any changes have been made. Alternatively, you will be able to view a regularly-updated programme on the web site at: <https://www.daventrydc.gov.uk/living/planning-policy/part-2-local-plan/local-plan-examination/>
15. All procedural questions or other matters that you wish to raise prior to the hearing sessions should be made through the Programme Officer.

## Examination hearings

16. The hearing sessions are part of the Examination into the Plan and will open on **Tuesday 11<sup>th</sup> June 2019 at 9:30am**; they are likely to last during that week until Thursday 13<sup>th</sup> June 2019, with a resumption on Tuesday 25<sup>th</sup> June 2019, and are scheduled to end on Thursday 27<sup>th</sup> June 2019.
17. The venue for the hearing sessions is the Saxon Suite, Daventry Leisure Centre, Lodge Road, Daventry, NN11 4FP. The morning sessions will start at 9:30am each day. Afternoon sessions will start at 2pm. There will be a break for lunch and short breaks mid-morning and afternoon. The sessions will aim to finish by 5pm on each day, although they may continue slightly later if necessary.
18. I have identified a number of matters which I consider need to be explored during the Examination. These are set out in the Matters, Issues and Questions document (MIQs) circulated with these guidance notes. The MIQs document also sets out a number of issues and specific questions that will need to be addressed. The hearing sessions will allow me to explore these MIQs further with the Council and other participants, taking into account representations already submitted and written statements made in response to the MIQs. I will lead a discussion around a table asking questions of the Council and allowing other participants to contribute as the session continues. Those participants indicating a desire to speak will be given an opportunity to do so. The hearing sessions will be open to the public to observe but only those invited participants will be able to speak. An agenda for each hearing session will be circulated to participants in advance.
19. A provisional timetable for the hearing sessions has been produced and circulated with these guidance notes. It is likely that the detailed programme will change closer to the start of the hearing sessions. Whilst the Programme Officer will endeavour to keep people informed, it is the participants' responsibility to keep in contact and ensure that they attend the appropriate sessions. The participants for each session will be those who made relevant representations on the Submission version of the Plan and have confirmed to the Programme Officer that they wish to speak.
20. All those who wish to speak at the hearing sessions should confirm this in writing or by e-mail to the Programme Officer **by 5pm on Friday 17<sup>th</sup> May 2019**, stating which session or sessions they wish to speak at (referring to the Matter number and /or the specific policy and quoting the respondent ref. no.). This includes those who had previously indicated a desire to attend the examination hearings when submitting representations. **If you do not contact the Programme Officer by this date, it will be assumed that you do not wish to speak at the hearings.** The finalised timetable and list of participants will be confirmed before the hearing sessions commence. Only those who indicate their wish to speak in advance of the hearing sessions and make prior arrangements with the Programme Officer will be able to do so.
21. Each matter will be the subject of an identified session in the hearing agenda. The format will provide a relaxed and informal setting for a

discussion led by me. It is not necessary for those attending to be professionally represented but a professional expert may act for you if you so wish. However, at each session there will normally only be space at the table for one representative of each group or organisation (apart from the Council, who have two seats), though there is no objection to the representative changing providing this is notified at the time. Legal representatives can take part as a member of the team, but not in a traditional advocate's role, as no cross-examination or opening/closing statements will normally be permitted other than from myself and the Council. Depending on the number of requests to speak, for practical reasons it may be necessary to seek to identify representatives where common viewpoints are being expressed.

22. Details of public transport services and car parking facilities can be obtained on request from the Programme Officer. The hearing venue is fully accessible. Any requests for assistance in attending the hearing sessions should be made to the Programme Officer as soon as possible.

### **The submission of statements and further material**

23. The Council should produce an individual written statement for each of the matters identified; addressing all of the issues and specific questions set out in the MIQs document. They should include specific references to supporting evidence where appropriate. For a number of the matters, the Council is asked to address key points raised in representations.
24. Other participants may, if they wish, submit written statements addressing the issues and questions set out for the sessions they are attending which are relevant to their particular representations. There is no need to repeat points already made in representations however and participants may wish to rely on these earlier representations. Others who have made relevant representations but are not participating in the hearing sessions may also submit statements addressing the MIQs. Although again, there is no need to repeat points already made.
25. If preparing statements, the representors should bear in mind that the Council has produced a schedule of what it considers to be minor modifications (PSD12) in the light of the representations made. In some cases, this may satisfactorily address the comments or objections made. In addition, the Council has responded to the representations made (PSD11) which may assist representors in understanding the Council's position.
26. Statements for the hearing sessions should be succinct, concentrating on responding to the particular questions raised. There is no need to include extracts from the Plan, other examination documents or those in the public domain such as the Framework or Planning Practice Guidance, clear cross referencing will suffice. Essentially, I need to know the following from those submitting further statements:
  - What particular part of the Plan is not legally compliant and/or unsound?
  - What legal compliance issue or soundness test(s) does it fail?
  - Why does it fail?

- How could the document be made legally compliant or sound?
- What is the precise change that is sought?

27. The written statements should be sent to the Programme Officer. For both the Council and other participants, the deadline for receipt of written statements for all matters is **5pm on Friday 17<sup>th</sup> May 2019** for both paper copies and electronic copies.
28. This is a strict deadline which must be adhered to in order for the hearing sessions to proceed as planned. It should be made clear who is submitting the statement (quoting the respondent ref. no.) and which matter it relates to. Statements should be no more than 3,000 words long, in A4 format. A flexible approach will be taken to the length of the Council's statements where the matters relate to a large number of individual policies or questions. Separate statements should be submitted for each matter.
29. Other than the statements referred to above, no further information or documentation should be submitted to the Examination unless specifically requested. Any unsolicited items sent in will be returned to the sender.

### **Statements of Common Ground**

30. Statements of Common Ground are welcome where these would be helpful in identifying points not in dispute, particularly with Duty to Co-operate bodies, thereby assisting the hearing sessions to concentrate on the key issues that truly need public discussion. They could for example include: agreed wording of a suggested change to a policy, agreed factual information or areas or points of disagreement. Work on such statements should commence now with the aim of completing them in time to influence relevant hearing statements.

### **Site visits**

31. I have familiarised myself with the area and intend to visit the sites and key locations in the Plan prior to the hearing sessions. Further visits may take place during the remainder of the Examination. It is envisaged that my visits will be on an unaccompanied basis. However, if there is a need to make a visit accompanied by the Council and other interested parties, arrangements will be made via the Programme Officer with time set aside to do so on **Friday 14<sup>th</sup> June 2019** and / or **Friday 28<sup>th</sup> June 2019** as required.

### **Summary/ key points**

- The MIQs document sets out the key questions which I will be considering at the hearing sessions.
- The hearings will start at **9:30am on Tuesday 11<sup>th</sup> June 2019**.
- A provisional programme for the hearing sessions has been published, but this is likely to be subject to change.
- Participants at the hearing sessions will be confirmed in due course.
- All of those wishing to speak at the hearings must confirm this in writing with the Programme Officer by **5pm on Friday 17<sup>th</sup> May 2019**.

- Statements for the hearing sessions should be based on the MIQs document and must be submitted to the Programme Officer by **5pm on Friday 17<sup>th</sup> May 2019.**
- All documentation relevant to the Examination is available on the Council's website.
- Any queries should be directed to the Programme Officer - Ian Kemp.

*Gareth Wildgoose*

INSPECTOR

5 April 2019

## **A - Sources of relevant documents and advice**

### **The Council's website**

All documents and information for the Plan Examination are available on the Council's website at:

<https://www.daventrydc.gov.uk/living/planning-policy/part-2-local-plan/local-plan-examination/>

If you do not have access to the internet, the documents and other information can be made available to view by arrangement through the Programme Officer, whose details appear on page 3 of this Note.

### **Relevant legislation**

*Planning and Compulsory Purchase Act 2004*

*The Localism Act 2011*

*The Town and Country Planning (Local Development) (England) Regulations 2012*

These documents can be searched for and found on:

<http://www.legislation.gov.uk/>

### **Guidance from The Planning Inspectorate**

Procedure Guide for Local Plan Examinations (June 2019)

The above document is available at:

<https://www.gov.uk/guidance/local-plans>