

Examination of the Tunbridge Wells Borough Local Plan

Examination Guidance Note

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Inspector appointed by the Secretary of State

Date: 21 January 2022

Introduction

- 1) The Tunbridge Wells Borough Local Plan was submitted to the Secretary of State for examination on 1 November 2021. This Guidance Note provides further information on the procedural and administrative arrangements for participants.
- 2) All participants should familiarise themselves with the contents of the note, in particular those who wish to submit hearing statements and/or take part in the hearing sessions.
- 3) Further information about the preparation and examination of Local Plans can be found in the Planning Inspectorate's Procedure Guide for Local Plan Examinations (<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice/procedure-guide-for-local-plan-examinations>)

The Role of the Planning Inspector

- 4) The Local Plan is being examined by **Matthew Birkinshaw** BA(Hons) Msc MRTPI. The Inspector has been appointed by the Secretary of State. His role is to examine whether or not the Local Plan has been prepared in accordance with the requirements of the Planning and Compulsory Purchase Act 2004 (as amended) and associated Regulations, and, whether or not it meets the tests of 'soundness' set out in the National Planning Policy Framework (the 'Framework').
- 5) At all times the Inspector will aim to work with the Council and everyone else involved in the examination in a positive and pragmatic manner.

The Role of the Programme Officer

- 6) The appointed Programme Officer is Charlotte Glancy. The Programme Officer is an independent Officer who is responsible for receiving, recording and distributing the examination materials, maintaining the examination library and organising the hearing sessions. Communication between the Inspector and representors is also handled by the Programme Officer, who can be contacted at:

Charlotte Glancy
C/O Banks Solutions
80 Lavinia Way
East Preston
West Sussex
BN16 1DD

Telephone: 01903 776601 or 07519 628064
Email: banksolutionsuk@gmail.com

- 7) The Programme Officer is also responsible for making sure that the information regarding the examination and all relevant documents are made available on the examination website:

(<https://tunbridgewells.gov.uk/planning/planning-policy/local-plan/examination-of-the-local-plan>)
- 8) Should any representors not have access to the internet, please contact the Programme Officer so that alternative arrangements can be made.

The Examination

- 9) The Framework requires that Local Plans are prepared in accordance with the Duty to Cooperate, meet legal and procedural requirements and are 'sound'.
- 10) As part of this process, the Inspector will need to determine whether or not:
- The Council has complied with the Duty to Cooperate under Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended);
 - The Local Plan has been subject to an adequate Sustainability Appraisal;
 - The Local Plan has been prepared in accordance with the Local Development Scheme and Statement of Community Involvement;
 - The requirements of the Conservation of Habitats and Species Regulations 2017 have been complied with, having regard to relevant national policy and guidance, and if an appropriate assessment has been carried out where necessary; and
 - Relevant publicity and procedural requirements have been met.
- 11) In terms of 'soundness', the Framework states that Plans are 'sound' if they are:
- **Positively prepared:** providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
 - **Justified:** an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
 - **Effective:** deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - **Consistent with national policy:** enabling the delivery of sustainable development in accordance with the policies in the Framework.

Changes to the Plan

- 12) The starting point is that the Council should have submitted a Local Plan which it considers is ready for examination¹. At this stage, there are only two means by which changes can be made to the submitted Plan:
- '**Main Modifications**' recommended by the Inspector; and
 - '**Additional Modifications**' made by the Council on adoption of the Plan.
- 13) Only the appointed Inspector can recommend 'Main Modifications' if they are necessary to resolve problems that would otherwise make the submitted Plan unsound, or not legally compliant². Main Modifications are changes which, either alone or in combination with others, would materially alter the Plan or its policies. Any potential Main Modifications must be subject to public consultation and, in some cases, further sustainability appraisal may be required.

¹ Section 20(2) of the Planning and Compulsory Purchase Act 2004

² Under section 20(7B) & (7C) of the Planning and Compulsory Purchase Act 2004

'Additional Modifications' are changes that do not materially affect the Plan (such as typographical errors, factual changes etc.) They are made by the Council on adoption and are sometimes referred to as 'Minor Modifications'. The Inspector is not accountable for such changes and they do not form part of the examination³.

- 14) Core Document Reference 3.127 includes a Schedule of Additional (Minor) Changes submitted by the Council. These changes will be discussed, where appropriate, at the relevant hearing session. It is possible that Main Modifications may also be proposed and discussed during the hearings.

Hearing Sessions

- 15) Only those seeking to change the Plan, and have duly made representations, have a right to participate in the hearing sessions⁴. It is also important to stress that written representations carry the same weight as those made orally at a hearing session. Therefore, participation at the hearings is only necessary if, in light of the matters, issues and questions raised, you have specific points that you wish to contribute orally at the hearing. The sessions will be open for anyone to observe online.
- 16) The hearing sessions will be held in two stages. Published alongside this *Guidance Note* is a draft *Examination Hearing Programme* for each stage. Stage 1 will cover legal compliance issues including the Duty to Cooperate, Sustainability Appraisal and Habitats Regulations. The Stage 1 hearings will take place on **Tuesday 1 March** and **Wednesday 2 March 2022**.
- 17) The Stage 2 hearings will cover the main soundness issues and run between **Thursday 24 March** and **Friday 27 May 2022**.

Hearing Session Format and Location

- 18) The hearing sessions will be informal, but structured. They will take place in the form of a roundtable discussion led by the Inspector. Hearings are designed to allow the Inspector to explore the main issues. People may choose to be professionally represented on the day, but there will be no formal cross-examination of witnesses or any detailed presentation of evidence.
- 19) Some hearing sessions will take place in the Council Chamber at the **Town Hall, Mount Pleasant Road, Royal Tunbridge Wells, TN1 1RS**. Others will take place virtually. The time, venue and format of each session is specified in the draft *Examination Hearing Programme*. Should participants have any queries or need to make alternative arrangements in order to attend a relevant session(s), they should contact the Programme Officer in the first instance.
- 20) Further details relating to how the hearings will operate, for both physical and virtual hearings, will be published in due course once the final programme has been established. Participants should be aware that the format of the hearing sessions will be subject to the latest legislation and Government guidance on Coronavirus ('COVID-19') available at the time. If that legislation and/or guidance changes prior to or during the programmed hearing sessions starting, procedures may need to be changed.

³ See the Procedure Guide for Local Plan Examinations

⁴ S20(6) of the PCPA 2004

Attending a Hearing Session

Stage 1

- 21) The *Matters, Issues and Questions for Stage 1* document will form the basis of the discussions at the hearing sessions and has been published alongside this *Guidance Note*. If you have any comments on this document (for example, because you feel there may be a significant omission) it is important that you contact the Programme Officer no later than **28 January 2022**.
- 22) The draft *Examination Hearing Programme for Stage 1* sets out which topics will be discussed on each day. In order to plan appropriately for each session, it is important that participants confirm with the Programme Officer if they wish to attend Stage 1 in writing by **4 February 2022**. It may not be possible to accommodate participants making a request to attend after this date.
- 23) Each session will be arranged by topic, not necessarily by policy number. It is therefore important that representors check that they have been allocated to the correct session, contacting the Programme Officer if unsure. You should only request to attend a session if you have made a representation seeking a change to the Plan relating to that topic.

Stage 2

- 24) A *Matters, Issues and Questions for Stage 2* document will be used to inform the Stage 2 hearings in the same way as Stage 1. This will be published on **16 February 2022**. If participants have any comments on the Stage 2 *Matters, Issues and Questions*, they must be submitted by **25 February 2022**.
- 25) The draft *Examination Hearing Programme for Stage 2* has been published now so that participants can make the necessary arrangements in advance of the additional hearing sessions starting. However, as these sessions run from late March 2022, participants have until **28 February 2022** to register their interest to attend with the Programme Officer. Again, it may not be possible to accommodate participants making a request to attend after this date.
- 26) If there is a Matter that has been raised by the Inspector, and one where several individuals (such as a group of local residents) wish to speak and make the same point, representors should consider whether they wish to nominate a single person to speak on their behalf. If participants are unsure, please contact the Programme Officer who will be able to help.
- 27) A final version of the *Examination Hearing Programme* will be published on the examination website before the start of each stage and confirm which representors are scheduled to attend each session. It will be for participants to check the progress of the hearings and to ensure that they are present at the right time.

Hearing Statements

- 28) Ahead of the hearings, the Council should produce Hearing Statements which respond directly to all the points raised in the *Matters, Issues and Questions* documents.
- 29) Any representors who have made comments seeking a change to the Plan and who are invited to the hearing sessions may also submit Hearing Statements. This, however, is optional and is not a requirement of the hearings.

- 30) Statements should be concise and focused, and appendices should only be included where directly relevant and necessary. There is no need to re-submit previous consultation responses as part of Hearing Statements.
- 31) Statements should only answer the specific Questions which are directly relevant to the original representation and should clearly identify the relevant topic to which they relate. Statements should be provided for each Matter separately.
- 32) All Hearing Statements must be submitted on time and received electronically by the following deadlines:
- Stage 1 Statements – **15 February 2022**
 - Stage 2 Statements:
 - For Week 2 and 3 hearings, the deadline is **15 March 2022**
 - For Week 4 hearings, the deadline is **8 April 2022**
 - For Week 5 hearings, the deadline is **22 April 2022**
 - For Week 6 hearings, the deadline is **13 May 2022**
- 33) Representors not participating at the hearing sessions may also submit an additional Written Statement where necessary in direct response to the *Matters, Issues and Questions* for either stage. However, this is not an opportunity to introduce further arguments, and the format and length of Written Statements is the same as for Hearing Statements. No other written evidence can be submitted unless specifically requested by the Inspector.

Statements of Common Ground

- 34) Statements of Common Ground between participants are encouraged where they assist in identifying matters in agreement, and therefore allowing the hearing sessions to concentrate on the issues in dispute.
- 35) Where possible, Statements of Common Ground should be submitted alongside Hearing Statements. If representors are intending on submitting Statements of Common Ground, please make the Programme Officer aware.

Site visits

- 36) Prior to, and during the course of the examination the Inspector will make site visits to the Plan area where necessary. Site visits will be carried out on an unaccompanied basis unless it is necessary to enter private land. In such circumstances, the Programme Officer will make the necessary arrangements with the relevant parties.

Consideration of Alternative Sites not in the Submission Local Plan

- 37) Part of the Inspector's task is to examine the soundness of the sites allocated for development in the submitted Plan. Those who have submitted representations to the effect that a site allocation or designation policy is unsound will be able to put their views forward at a relevant hearing session, if they have made a request to do so. The Council will have the opportunity to respond.
- 38) Sites that have been put forward for inclusion in the Local Plan by objectors, but which have not been selected for allocation are referred to as 'omission sites'. Representors should note that it is **not** part of the Inspector's role to examine the soundness of omission sites, and, subject to the legal right to be heard (see paragraphs above), such sites will not normally be discussed at the hearings.

39) Should the situation arise where additional site(s) are needed (for example, because one or more of the allocated sites is found to be unsound), the Inspector will look to the Council in the first instance to decide which alternatives should be brought forward for examination.

Examination Programme

40) Based on the above, the examination timetable and relevant dates are as follows:

Stage 1

- **18 January 2022** – notification of the time, date and location of all hearing sessions for Stages 1 and 2. Publication of the draft *Examination Hearing Programme, Guidance Note and Matters Issues and Questions for Stage 1*.
- **28 January 2022** – deadline for any comments on the *Matters, Issues and Questions for Stage 1* document.
- **4 February 2022** – deadline for confirming with the Programme Officer if you wish to attend the Stage 1 hearings.
- **15 February 2022** – Hearing Statement deadline for Stage 1 hearings.

Stage 2

- **16 February 2022** - Publication of the *Matters, Issues and Questions for Stage 2*.
- **25 February 2022** - deadline for any comments on the *Matters, Issues and Questions for Stage 2* document.
- **28 February 2022** - deadline for confirming with the Programme Officer if you wish to attend the Stage 2 hearings.
- **15 March 2022** - Hearing Statement deadline for Week 2 and 3 hearings.
- **8 April 2022** – Hearing Statement deadline for Week 4 hearings.
- **22 April 2022** – Hearing Statement deadline for Week 5 hearings.
- **13 May 2022** – Hearing Statement deadline for Week 6 hearings.

Closing the Examination and the Inspector's Report

41) Following the hearing sessions, the relevant findings will be set out in the Inspector's Report, or in some cases, through Interim Findings. The Report will be sent to the Council at the end of the examination and will set out the conclusions, and where necessary, any Main Modifications to make the Plan sound and/or legally compliant.

42) The examination will remain open until the Report has been submitted to the Council. During this time no further written submissions or evidence will be taken into account unless specifically requested.

Matthew Birkinshaw

Inspector