

CANTERBURY DISTRICT LOCAL PLAN EXAMINATION GUIDANCE NOTES FOR PARTICIPANTS DRAFT

(This Guidance Note will cease to have effect on 13 May 2015 when it will be revised and re-issued in its final form)

Introduction

1. These Guidance Notes have been prepared to assist those individuals and organisations who are involved in the Examination of the Canterbury District Local Plan (LP). The LP was formally submitted to the Secretary of State on 20 November 2014 following a six week consultation period.

The Pre-Hearing Meeting (the PHM) – Wednesday 13 May 2015

2. The purpose of the PHM is to provide an opportunity for procedural and administrative matters relating to the hearings to be explained and discussed, such as their form and content. It will be an opportunity for you to raise any matters that may be causing concern, but **it will not be an occasion for detailed discussion of the merits of the matters to be considered at the hearings**. Notes of the PHM will be sent to all those who have made representations on the LP.

Inspector and Programme Officer

3. The Secretary of State has appointed the Inspector, Mike Moore BA(Hons) MRTPI CMILT MCIHT, under Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'), to hold the Examination into the LP.
4. Angela Furlong is the Programme Officer (PO). She is acting as an impartial officer for the Examination under the Inspector's direction. Her main tasks are to liaise with all parties to ensure the smooth running of the Examination, to organise the hearing programme, to ensure that all documents received both before and during the hearings are recorded and distributed, to keep the Examination Core Document Library and to assist the Inspector with administrative and procedural matters. She will advise on any programming or procedural queries. Any matters which the Council or participants wish to raise with the Inspector should be addressed to the PO. Anyone who requires assistance or special facilities for disabled persons should contact the PO beforehand to enable appropriate arrangements to be made. Her contact details are:

Address: Canterbury City Council Offices, Military Road, Canterbury CT1 1YW

Tel: 01227 862388

Email: Programme.officer@canterbury.gov.uk

Purpose and nature of the Examination

5. It is important to note that the "Examination" relates to the whole process of examining the plan, from the time the LP was submitted to the Secretary of State to the submission of the Inspector's report to the Council. The hearing sessions will commence at **10am on Tuesday 14 July 2015**.
6. Following his initial review of the plan and its associated evidence the Inspector has decided to conduct the Examination in two stages. Stage 1 will deal with matters relating to the duty to co-operate, legal compliance and the soundness of the overall plan strategy, including meeting objectively assessed housing and other needs, the strategic site allocations and key infrastructure. Stage 2 will deal with other site allocations, designations, development management policies and any other aspects not covered in Stage 1.
7. The Inspector's task is to consider whether the LP meets the requirements of section 20(5) (a-c) of the 2004 Act and associated regulations and whether it complies with the requirements of the National Planning Policy Framework ('the Framework'). These requirements comprise (i) whether the **legal requirements** have been met, whether the Council has complied with the **duty to co-operate**; and whether the plan is **sound**. The Framework indicates that a sound plan is **positively prepared, justified, effective and consistent with national policy**. The Council should rely on evidence collected while preparing the LP to demonstrate that it meets the requirements of the Act. Those seeking main modifications (changes) to the LP (those necessary for the plan to be sound or legally compliant) have to demonstrate why the document does not meet the requirements and how the suggested changes would address any failure.
8. The key elements in the Examination process are:
 - The starting point for the Examination is the assumption that the Council has submitted what it considers to be a sound plan;
 - The Inspector has to consider the representations made on the submitted plan;
 - The Inspector is not required to consider each and every point made in every objection or to report on them, but to use the representations as the starting point in considering the Examination requirements;
 - It is not the Inspector's role to seek to improve the LP or to make it 'more sound' but to seek to address unresolved issues through round table discussion or consideration of the original written representations.
 - The Inspector also has to exercise his duties under section 39 of the 2004 Act with the objective of contributing to sustainable development and to take account of the presumption in favour of sustainable development in the Framework.
9. The hearing sessions are intended to be an inquisitorial process under the Inspector's direction. They will address particular topics selected for discussion by the Inspector from the soundness requirements and the representations made at the publication stage.

10. Following the close of the hearings after Stage 2 the Inspector will prepare a Report for the Council with his conclusions on legal compliance and soundness. Under section 20(7C) of the 2004 Act the Council has requested the Inspector to recommend any main modifications to the plan that are necessary to make it sound and legally compliant. Participants should note that there is no provision for main modifications to be requested in relation to the duty to co-operate: the plan as submitted either meets or fails that test. The Council can make minor changes to the plan at any time up to its adoption. These should not materially affect the substance of the plan, its overall soundness or the submitted sustainability appraisal. They need not form part of the Examination.
11. The Inspector will work with the Council to ensure that any necessary main modifications are supported by evidence and are subject to the same process of sustainability appraisal, publicity and opportunity to make representations as the submitted plan. Any main modifications should include the precise wording of the text and be set out in an Examination document.
12. Further guidance can be found in:
 - The Planning and Compulsory Purchase Act (2004) and associated regulations
 - The Planning Inspectorate's guidance (See Planning Portal - [Local Plans](#)):
 - Examining Local Plans: Development Plan Documents: Procedural Practice December 2013 (3rd Edition v2)
 - Examining Development Plan Documents: Learning from Experience September 2009 (which highlights experience up to that date)
 - The Planning Advisory Service's guidance on Local Planning (<http://www.pas.gov.uk/local-planning>)

Representations on the Local Plan

13. Some 2,489 representations (from 407 organisations and individuals) were received on the published LP document.
14. Respondents should have already indicated whether their views should be dealt with in a written form or whether they feel that they need to come and discuss them orally at a hearing session. **Both methods will carry the same weight and the Inspector will have equal regard to views made at a hearing or in writing. Attendance at a hearing session will only be useful and helpful if you need to contribute to a debate.**
15. Those who wish to proceed by written means can rely on the representations that they have already submitted. The right to participate in a hearing extends only to those who propose changes to the LP. There is no need for those supporting the LP or merely making comments to take part in the hearings although they may attend as observers. However, the Inspector may invite persons to appear or be heard at the hearings where

he thinks they are needed to enable the soundness of the plan to be determined.

16. If any party wishes to change from a written representation to an appearance at a hearing session or, having seen the scale and scope of the representations, to change from an appearance to written representations they should inform the PO by **Wednesday 10 June 2015**. In the interests of fairness to other participants, changes to the method of progressing representations will **not be accepted** after this date.

Procedure at the hearing sessions

17. The hearing sessions for Stage 1 of the Examination will commence on **Tuesday 14 July** 2015 at 10.00 hours. Subsequent sessions will normally start at 10.00 hours and 14.00 hours with a break for lunch at about 13.00 hours, although earlier starts may be made in some instances (please check the hearings programme when published). They should finish by about 17.00 hours. If convenient, short breaks will be taken mid-morning and mid-afternoon.
18. The emphasis in the hearing sessions will be on the requirements of s20(5) (a)-(c) of the 2004 Act. After initial sessions on legal compliance and the duty to co-operate, the hearings will focus primarily on issues of soundness. There will be a series of hearing sessions based on the matters that the Inspector has identified in a list of Matters, Issues and Questions. It is based on current national planning policies and the Government's Planning Practice Guidance. Any changes to national policy and guidance may lead to amendments or additions to the list.
19. The hearing format will provide an informal setting for dealing with issues by way of a discussion led by the Inspector. Those attending may bring with them professional experts but there will be no formal presentation of evidence, cross-examination or formal submissions. There is no need for participants to have legal representation but where this occurs such advisors will be treated as part of the participant's team, as appropriate.
20. Before the sessions the Inspector will set out an agenda with the questions for discussion on each topic. The discussion will focus on the issues identified on the agenda and the questions posed. The Inspector will begin by making a few brief comments on the matters to be covered, before inviting participants to make their contribution to the debate in response to the points raised. All participants will have an equal chance to contribute and there will be an opportunity to ask questions. The hearings will be conducted on the basis that everyone taking part has read the relevant documents, although participants will be able to refer to and elaborate upon relevant points, as necessary. The Inspector will endeavour to progress the hearings in an effective and efficient manner, keeping a tight hand on the discussions and time taken. As part of that process, he will aim to minimise the amount of material to that necessary to come to informed conclusions on the issues. It is also important that participants should not seek to introduce new material at a hearing session.

21. There are some issues on which many people wish to be heard. Please carefully consider whether your concerns could be dealt with by one appointed group spokesperson or whether you can rely on the written representations already made without appearing at a hearing. In order to run efficient sessions the Inspector will not permit repetition of points at hearings: a good point made ten times does not become a better point.

Hearings programme

22. A draft Programme for the hearings, putting dates and times to the issues and subjects to be examined, will be published as soon as possible. If you have any queries on it, please raise them with the PO. The Programme will be available on the web site, or in paper form from the PO.
23. Every effort will be made to keep to the programme, but late changes may be unavoidable. The PO will inform participants of any late changes to the timetable but it will be the responsibility of individual participants to keep themselves up to date and to ensure that they are present at the correct time.

Preparation and submission of further material

Core Documents and Examination Library

24. The Council has prepared a list of Core Documents which is available in the Examination Library and on the website. The list of Core Documents should represent the Council's full evidence base for the Examination. Further documents may be added as the Examination progresses – for example, in response to a request from the Inspector. Participants should ensure that any documents they intend to refer to are included in the list of Core Documents and they should arrange for any missing documents to be sent to the PO, both electronically (where possible - pdf format is preferred) and in paper format (3 copies required).
25. A number of documents have been added to the Examination Library since consultation took place on the submission LP. Where relevant, respondents can refer to these in any further written submissions on the Matters, Issues and Questions (see para 28).
26. In addition to the Core Documents, the Examination Library will contain copies of representations and further statements. The PO will assist anyone wishing to see and/or copy any documents.

Submission of further statements and other material

27. The representations made on the submission version LP should have included all the points and evidence to substantiate respondents' cases and **it is not necessary to submit further material based on the original representations**. Please note that although respondents may have made representations at earlier stages of the plan process, the Inspector only has copies of the representations made at the LP submission stage.

28. From now on, any further written submissions should mainly be limited to responding to the Inspector's Matters, Issues and Questions for examination. They should not expand on what is in the representations; neither should they stray beyond those issues relevant to each original representation. The only exception will be new matters that have arisen since representations were submitted (for example the publication of the 2012-based sub-national household projections and the additional documents added to the Core Document Library by the Council) and any modifications that are promoted during the course of the Examination. Respondents may refer to new Documents or new matters in statements they intend to submit in relation to the Inspector's Matters and Issues. All further statements must be received **by noon on Wednesday 10 June 2015**.
29. When submitting further statements respondents should focus on:
- Which particular part of the LP is unsound.
 - Which of the soundness criteria in para 182 of the Framework it fails to meet.
 - Why it fails (point to the key parts of your original representations).
 - How the LP can be made sound.
 - The precise modifications/wording that you are seeking.
30. From the Council the Inspector needs a general response to each of his Matters, Issues and Questions. This should include a response to the representations and set out why, in its view, the LP is sound in that respect and why the changes sought by others would make it unsound. On legal compliance the Council should provide a brief statement indicating its conclusions on each of the headings in the Inspector's list, cross referring to the evidence base as appropriate. It should also provide a response to the Inspector's Questions and the representations made in relation to the duty to co-operate.
31. Submissions should be succinct, avoiding unnecessary detail and repetition. They should set out the fundamental elements of cases, since the hearings are not the place for new points or evidence to be presented for the first time. They should focus on the issues identified by the Inspector and on the tests of soundness, demonstrating why the plan is unsound and how it could be made sound. There is no need for verbatim quotations from the LP or other sources of policy guidance. Supporting material in the form of appendices to statements should be limited to those which are essential and should not contain extracts from any publication that is already before the Examination, such as the documents in the Examination Library. However it is essential that statements indicate clearly the paragraph or page of the document that is being relied on. Anyone submitting appendices with their statements should indicate in their statement which parts are particularly pertinent and on which they are especially relying by reference to page or paragraph numbers.
32. Participants should not include links to web pages in their statements. The content of websites can change and it is important that all parties are clear about what is being referred to. Where it is necessary to refer to a website, an appropriate extract can be included as an appendix to the statement.

33. Participants should attempt to reach agreement on factual matters and statistics before the hearings start and everyone is encouraged to maintain a dialogue with the Council and other participants in advance of the hearings. Statements of Common (or Uncommon) Ground are a useful way of narrowing the issues in dispute, thereby assisting the hearings to concentrate on the key issues that truly need public discussion. They should be submitted in accordance with the timetable for further statements.
34. **There is no need to prepare a further statement if all the points are already covered in the original representation.** However, participants should inform the PO if they do not intend to submit further statements so that the Inspector will be aware that the original representation will form their views.
35. Those appearing at **hearings** should send 4 paper copies of all statements to the PO. Where possible the PO should also be sent an electronic copy in PDF format. For any further **written representations** produced by those not appearing at the hearings 4 copies of statements need to be submitted.
36. Statements should be no longer than **3,000 words per matter** (1,500 words for new matters or responses to any modifications). Any submissions which are excessively long or contain irrelevant or repetitious material may be returned by the PO for editing. Statements should be on A4 paper, (3 stapled copies and one unstapled for ease of copying), and not bound; plans or diagrams should fold down to A4 size. All statements should be marked in the top right hand corner with the Matter number, name and respondent number (listed on the website or available from the Programme Officer).
37. All participants should adhere to the timetable for submitting further statements. They should avoid circulating additional material during the hearings. **Late submissions and additional material are unlikely to be accepted**, since this can cause disruption and result in unfairness, and can cause an adjournment of the hearing. If material is not received by the deadlines stated, the PO will assume that you are relying only on the original representations.

Site visits

38. The Inspector will visit sites and areas referred to in the representations before, during, or after the hearings. This will generally be done unaccompanied by the parties.

Close of the Examination

39. The Examination will remain open until the Inspector's report is submitted to the Council. However, the Inspector will not accept any further representations or evidence after the hearing sessions have finished unless he specifically requests further information. Any late or unsolicited material is likely to be returned.

Submission of Inspector's Report to the Council

40. The date of submission of the Inspector's Report will largely depend on the content, extent and length of the Examination. He will aim to confirm the likely date at the end of the final hearing session.