

## GUIDANCE NOTE FROM THE INSPECTOR

### Introduction

1. The Hearing sessions which are part of the overall Examination into the Southend-on-Sea Central Area Action Plan (the Local Plan) will open on **Tuesday 23rd May 2017** at 10:00 hrs; they are likely to last for four days, and are scheduled to end on **Friday 26<sup>th</sup> May 2017**. The venue for the Hearings is **Committee Room 1 Victoria Avenue, Southend-on-Sea, Essex, SS2 6ER**.

### The Inspector's role

2. The Inspector's role is to consider whether the Local Plan meets the requirements of the Act and associated Regulations against the **tests of legal compliance, duty to cooperate and soundness**. The Examination is likely to focus 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 Local Plan is:
  - 1) positively prepared (based on a strategy that seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development);
  - 2) justified (the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence);
  - 3) effective (deliverable over its period and based on effective joint working on cross-boundary strategic priorities); and
  - 4) consistent with national policy (enabling the delivery of sustainable development in accordance with the policies in the Framework). Appendix A contains a list of useful publications and web sites for advice.
3. Examining plans under the current system is based on the following key considerations:
  - First, the **focus is on the Plan** rather than the objections. My role is to examine the soundness of the Plan having regard to the representations submitted and issues identified, rather than considering individual objections as such.
  - The Hearings are akin to an Examination in Public with 'round table' or informal Hearing sessions addressing particular topics, rather than a public inquiry which is more adversarial in nature.
4. Through the Programme Officer, I shall work with the Borough Council and the Examination participants in a proactive, pragmatic and solution-orientated manner. Those taking part should aim to be cooperative and respectful. I cannot recommend as 'main modifications' changes that are merely "improvements" which do not affect the soundness of the Local Plan. Nevertheless, it would be unusual if the Borough Council did not wish to respond positively to the concerns of participants, where possible, and I shall encourage that, if appropriate.
5. **The Borough Council is likely to prepare schedules of main and minor modifications, to be available on the website, and ask that I deal with them in the Report, which I will do, but only after everyone has had an opportunity to comment in writing on both those sets of modifications, if any are proposed.**
6. **If, exceptionally, more fundamental changes are proposed, such as the addition or deletion of a strategic site, the Borough Council must fully explain and justify the reasons for the changes, with supporting evidence. It should also indicate the implications in terms of the soundness of the document and ensure that they have been subject to the same process of Sustainability Appraisal (SA),**

**publicity and opportunity to make representations as with the submitted version.**

7. After the Hearing sessions I prepare a **Report to the Borough Council**, with my conclusions and recommendations as to the action(s) it needs to take with regard to the soundness of the document. My report is **not binding** on the Borough Council but it should amend the documents in the light of my recommendations and move swiftly to formal adoption. The report will deal with broad issues and not with each individual representation.

**The Programme Officer**

8. The Programme Officer (PO) for the Examination is Mrs Claire Jones-Hughes. She is entirely independent of the Borough Council and has not been involved in the preparation of the Local Plan and she works under my direction. Mrs Jones-Hughes can be contacted on 01273 381518, by email at [bankssolutionsuk@gmail.com](mailto:bankssolutionsuk@gmail.com), or by post at c/o Programme Officer, Banks Solutions, c/o 6 Brading Road, Brighton, BN2 3PD.
9. The main tasks of the PO 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. Copies of the Examination documents are mainly to be found on the Borough Council's web site (see below). A hard copy record will be held at the Borough 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 Mrs Jones-Hughes beforehand in order to ensure availability.
10. During the Examination the PO will be able to tell you how closely the Hearing sessions are following the circulated programme. Alternatively, you will be able to view a regularly-updated programme on the web site at:  
  
[http://www.southend.gov.uk/info/200420/development\\_plan\\_documents/391/southend\\_central\\_area\\_action\\_plan\\_scaap/6](http://www.southend.gov.uk/info/200420/development_plan_documents/391/southend_central_area_action_plan_scaap/6)
11. Any participant who has a disability that could affect their contribution to the Examination should contact the PO as soon as possible so that any necessary assistance can be provided. All other procedural questions or other matters that you wish to raise prior to the Hearings should be made through the PO.

**Number of representations**

13. A total of 411 representations were received on the Revised Proposed Submission Local Plan from 107 respondents (persons or organisations). All the representations which are made during the consultations will be taken into account in the Examination insofar as they relate to my consideration of soundness.

**Progressing representations**

14. **The starting point for the Examination is the assumption that the Borough Council has submitted what it considers to be a sound Plan. Those seeking changes should demonstrate why the Local Plan is unsound by reference to one or more of the soundness criteria set out in paragraph 2 above.**
15. The Borough Council should rely on evidence collected whilst preparing the documents to demonstrate that the Local Plan is sound.
16. Those who have made representations on the Local Plan should have already indicated whether those views can be dealt with in a **written form** or whether they want to come

and discuss them **orally** at a Hearing session. Both methods will carry the same weight and I will have equal regard to views put orally or in writing.

17. Attendance at a Hearing session will only be useful and helpful to me if you wish to participate in a debate. You will all be there to help me, so you may be asked to comment on things that are not directly related to your own written submissions.
18. I may also specifically invite participants to particular sessions if I think that would assist the Examination.
19. The Hearing sessions will only discuss the issues and questions that I have raised. If you feel that there are important matters that have not been identified for discussion, or wish to participate in a Hearing but are not listed to do so, or vice versa, please let the PO know by no later than **Friday 5<sup>th</sup> May 2017**.
20. I stress the need for everyone to work together during the Examination process on changes that could be made to the Local Plan, whilst avoiding producing so many alterations that they together might render the Local Plan cumulatively unsound.

### **The Hearing sessions**

21. Each Matter will be the subject of a separate session. 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 Round Table sessions there will normally only be space at the table for one representative of each group or organisation (apart from the Borough Council, who have two seats), though there is no objection to the representative changing, providing this is notified at the time.
22. Legal representatives take part as a member of the team, not in a traditional advocate's role, as no cross-examination or opening/closing statements will normally be permitted.
23. I will draw those present into the discussion in such a way as to enable me to gain the information necessary to come to a firm conclusion on the matters before me. All statements should have been read beforehand by all participants and discussions will proceed on the assumption that they have been; there will therefore be no formal presentation of evidence. There may be an opportunity within the discussion to ask questions of the other participants, if appropriate. **No more evidence can be submitted once the Hearing session has closed unless I expressly request it. Any that is will almost certainly be returned by the PO.**
24. The Hearings will be inquisitorial rather than adversarial. I shall endeavour to progress them in an effective and efficient manner. As part of that process, it is my aim to minimise the amount of material necessary to come to informed conclusions on the issues of soundness. In that way I will conduct a short, focused series of Hearings and, in turn, produce a short, focused report.

### **The Hearing Programme**

25. A draft Programme for the Hearings, putting dates and times to the Issues and Questions, is included within the Discussion Note. If you have any queries, please raise them with the PO as soon as possible.
26. Should changes be required to the Programme, it will be updated on the Examination web site. The PO will also be able to provide information on any changes. However, it will be for individual participants to check on the progress of the Hearings, either on the web site or with the PO, and to ensure that they are present at the right time.

27. After the first day (Tuesday 23rd May), the Hearings sessions will start at 09:30 each day and will normally finish no later than 17:00. No new session (Matter) will begin before its stated start time but a later start may be unavoidable if a previous session (Matter) has overrun. A short break will be taken mid-morning and mid-afternoon. Lunch will be taken at around 13:00hrs.

### **The Evidence Base and Examination Library**

28. The Borough Council has prepared an evidence base list that will be available in the Examination Library (available to view on request from the PO). The evidence base includes documents to which the parties are likely to need to refer. Most of these will be available on the web site, which will be regularly updated. Accordingly, parties should not attach extracts of these documents to their Statements as they are already Examination documents. However, where reference is made to an Examination Document the reference number should be given as should the section or paragraph where the point referred to can be found. This will allow other participants to see for themselves the context in which the point is made.

### **Statements of Common Ground**

29. Statements of Common Ground (SCGs) are welcome where these would be helpful in identifying points not in dispute, thereby assisting the hearings 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.
30. **Work on such statements should commence now with the aim of completing them in time to influence relevant hearing Statements.**

### **Statements**

31. All further representor statements, for both the Hearing and further written representations, **must** be sent to the PO by 17:00 hrs on **Friday 5<sup>th</sup> May 2017**. This deadline relates to the receipt of both **paper copies and electronic copies**. All further written submissions/statements should only address the Matters, Issues and Questions as set out in the Discussion Note. The Borough Council's Statements may also include responses to the matters in the original representations and should refer to any proposals for changes to the policies, text or plans (see also paragraphs 5 & 6 above). All statements will be placed on the Examination web site as soon as possible.

### **Form of Statements**

32. Appendix B of this document sets out the requirements for the presentation of all Statements. Its provisions should be thoroughly read and implemented. Statements that do not comply with these requirements will be returned. Please note the 3,000 word limit.
33. **Essentially, I need to know the following** from those submitting further statements:
- What particular part of the document is unsound?
  - Which soundness test(s) does it fail?
  - Why does it fail?
  - How could the document be made sound?
  - What is the precise change that is sought?
34. **From the Borough Council I look for a brief response statement on each issue**, setting out why they consider the Local Plan to be sound in that respect.

### **Site visits**

35. I will have **toured the area covered by the Local Plan** to familiarise myself and I will visit the main sites referred to in the representations before, during, and/or after the Hearing sessions. This will mostly be done unaccompanied but an accompanied visit may be needed for some sites after the Hearings.

### **Close of the Examination**

36. Once I have gathered all the information necessary to come to reasoned conclusions on the main issues, I will write the Report. The Examination **remains open** until the Report is submitted to the Borough Council; however, once the Hearing sessions are over I can receive **no further information** from any party, unless it is a matter on which I have specifically requested it. Any unsolicited items sent in will be returned to the sender.

### **Submission of the Reports to the Borough Council**

37. The report is currently expected to be submitted to the Borough Council around early September 2017. However this will be subject to review, depending on the progress of the Examination.

## **Appendix A - List of relevant legislation and guidance**

### **Legislation**

These documents can be searched for and found on: <http://www.legislation.gov.uk/>

Planning and Compulsory Purchase Act 2004

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

The Localism Act 2011

### **Government Policy and Guidance**

National Planning Policy Framework (NPPF)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

### **Guidance from the Planning Inspectorate**

Procedural Practice in the Examination of Local Plans, June 2016, 4<sup>th</sup> Edition V1

[http://www.planningportal.gov.uk/uploads/pins/dpd\\_procedure\\_guide.pdf](http://www.planningportal.gov.uk/uploads/pins/dpd_procedure_guide.pdf)

### **Examination and Evidence Base Documents**

The Examination web site can be found at:

[http://www.southend.gov.uk/info/200420/development\\_plan\\_documents/391/southend\\_central\\_area\\_action\\_plan\\_scaap/6](http://www.southend.gov.uk/info/200420/development_plan_documents/391/southend_central_area_action_plan_scaap/6)

Many of the above documents and most of the evidence base documents are available on-line through the web site and can be found towards the end of the page.

## **Appendix B - Format for statements**

- A. Please send, where possible, e-mailed electronic versions of all Statements and Appendices to the PO (in Word or PDF format) for the Examination web site as well as **three** paper copies as detailed below.
- B. I emphasise the need for succinct submissions with the avoidance of unnecessary detail and repetition of the original representation.
- C. It is the quality of the reasoning that carries weight not the bulk of the documents. There is no need for verbatim quotations from the Local Plan or other sources of policy guidance. It is vital that the fundamental elements are set out clearly and succinctly – the hearing sessions are not the place for surprise contributions!
- D. None of the statements should be longer than **3,000 words**. For the avoidance of doubt, this limit applies to statements in response to individual questions. Statements should be prepared on A4 paper and **not bound** in any way but just stapled and hole punched. **No photographs** should be submitted. Any plans or diagrams should also be folded to A4 size and listed as Appendices.
- E. Supporting material in the form of Appendices to statements should be limited to that which is essential and should not contain extracts from any publication that is already before the Examination, such as evidence base documents and nationally available Government guidance – a paragraph or page reference will suffice. Any Appendices should have a contents page and be paginated throughout. Whilst the word limit does not include text in appendices, the aim of succinctness should be respected. Anyone submitting appendices should indicate in their statement which parts they are especially relying upon.
- F. Please submit a separate statement for each issue covered, if your statement covers multiple issues please do not combine the content into a single statement, each statement should specifically address questions covered within an individual issue. This will assist distribution, publication and understanding during the Hearing sessions.
- G. All participants must adhere to the timetable for submitting statements. Late submissions and additional material will **not be accepted** under any circumstances, since this can cause disruption and result in unfairness. If material is not received by the deadlines, the PO will assume that you are relying on your original representation:
- H. Statements to be received by the PO by **17:00 hrs** on **Friday 5<sup>th</sup> May 2017** (see paragraph 31 of the Notes).
- I. **It is stressed that these deadlines refers to the receipt of both electronic and paper copies of statements. It is not sufficient to send an electronic copy by this deadline to be followed by paper copies at a later time.**
- J. **All paper copies of statements should be addressed to the Programme Officer at the following address:**

**Mrs Claire Jones-Hughes  
Programme Officer  
Banks Solutions  
c/o 6 Brading Road  
Brighton  
BN2 3 PD**