

Lancaster City Council

Examination of the Lancaster District Strategic Policies & Land Allocations Development Plan Document and Development Management Development Plan Document Submission Drafts

GUIDANCE NOTE FROM THE INSPECTOR

The hearing sessions (which are part of the examination) will start at 10am on Tuesday 9 April 2019 and will last for around 9 days. They will be held at Morecambe Town Hall, except on Wednesday 10 April when the hearings session will be at The Storey Institute, Lancaster.

Introduction

1. I am the Planning Inspector appointed by the Secretary of State for Housing, Communities and Local Government to examine the soundness of the Lancaster District Strategic Policies & Land Allocations Development Plan Document and Development Management Development Plan Document Submission Drafts (the Plan). I have prepared this guidance note. Its purpose is to explain the procedural and administrative matters relating to the Examination.
2. The Programme Officer (PO) for the Examination is **Mrs Kim Russell**. Kim is working under my direction and is independent of the Council. Kim will be responsible for organising the programme of hearings, maintaining the Examination library, recording and circulating all material received, and assisting me with procedural and administrative matters. She will also advise on any programming and procedural queries. Any matters which the Council or participants wish to raise with me should be addressed to the PO. She can be contacted as follows:

Mrs Kim Russell
6 Laurel Gardens
Kendal
Cumbria
LA9 6FE
Email: programmeofficer@lancaster.gov.uk
Tel: 01539 728198
Mobile: 07442 162039

3. Copies of examination documents can be found on the Examination web site <http://www.lancaster.gov.uk/planning/planning-policy/examination-stage> Any participant who does not have access to the internet should contact the PO so that alternative arrangements can be put in hand.

Any procedural questions or other matters that you wish to raise with me prior to the hearing sessions should be made through the PO.

4. Two documents are available with this note:

Issues and Questions for the examination. These will form the basis of the discussion at the hearing sessions.

Letter to Representors – this seeks confirmation of a wish to be heard at the

hearings sessions

A draft hearing timetable will also be published shortly on the Examination website which will set out the issues to be discussed at each hearing session. Details may change.

The Inspector's role in the examination

5. My task is to consider the soundness and legal compliance of the Plan, on the basis of the relevant legislation and the guidance in the National Planning Policy Framework (NPPF) to determine whether it 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 NPPF's policies.
6. My starting point for the examination is that the Council have submitted what they consider to be a sound Plan, as the NPPF requires. Those seeking changes must demonstrate why the Plan is unsound by reference to one or more of the tests of soundness.
7. I will seek to address unresolved issues concerning the soundness or legal compliance of the Plan through round-table discussion at the Examination hearings, and consideration of the original written representations. It should be emphasised that my role is not to improve the Plan, but to determine whether or not it meets the soundness tests. It is possible that further work will need to be carried out by the Council. If that is the case, the timetable, when known, will be posted on the website.
8. After the hearings have closed, I will prepare a report for the Council with my conclusions. If I find the Plan is legally compliant and sound in all respects, my report will recommend its adoption. If I find that it is non-compliant or unsound in any respect, I will recommend modifications to make it compliant and sound. My report will deal with the main issues concerning the soundness of the Plan, taking into account all the representations received. However, it will not deal with each individual representation.
9. Consultation will take place on main modifications, and where appropriate, modifications may also need to be covered by a revised Sustainability Assessment. The Council may then formally adopt the Plan, incorporating the modifications which I recommend.

Progressing your representations

10. Representors have already indicated whether their views should be dealt with in 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 I shall have equal regard to views put at a hearing or in writing. Attendance at a hearing session will only be useful and helpful to me if you need to participate in a discussion

concerning the soundness or legal compliance of the Plan.

11. Those who wish to proceed by written means can rely on what they have already submitted. The right to participate in a hearing extends only to those who propose changes to the Plan in order to make it sound and legally-compliant. There is no need for those supporting the Plan or making comments to take part in the hearings, although they may attend as observers. I may invite additional participants to attend the hearings where I think they are needed to enable the soundness of the Plan to be determined.
12. The original representations should have included all the points and evidence necessary to substantiate them, so there will be no need to submit further material based on the original representations. Any further written evidence should be limited to responding to the issues and questions which I have identified. It should not merely repeat the representations or stray beyond the issues to which each original representation refers.
13. If any person or organisation wishes to change from a written representation to an appearance at a hearing session or vice-versa they should inform the PO by **5pm Friday 8th March 2019**. In the interests of fairness to other participants, no additional request to appear at hearing sessions will be accepted after this date, unless there are special circumstances justifying it.
14. Please refer to the attached letter to representors and the draft Hearing Timetable for details of appearing at the hearing sessions and when specific issues will be discussed. The letter also sets out dates by which representors should respond. A final version of the Hearing timetable will be published on the examination web site around two weeks before the start of the hearings. It will be for individual participants to check 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.

The hearing sessions

15. The oral examination will be based on the issues and questions that I have identified. The hearing will deal with the policy and any issues in turn and will consider them by way of a structured discussion which I will lead. The hearing will not normally involve cross-examination. Those attending may, if they wish, bring professional experts with them. Barristers and solicitors, if present, will be treated as part of the respective team.
16. The purpose of the hearing is to concentrate on the matters that I need to hear about. It is not an opportunity simply to repeat a case already set out in written representations. The discussion will be structured around an agenda which will be issued in its final form shortly before the hearing session. This will not be as extensive as the Issues and Questions accompanying this note since some of the issues will be capable of being dealt with in writing. The emphasis will be on testing for soundness. I shall make a few brief comments on the matters I want covered, then invite individuals to make their contribution in response to the points I have raised. All participants will have an equal chance to speak.
17. 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 issues before me. There will be no formal presentation of evidence, as I will have read all the relevant representations beforehand, and I will expect all the other participants to have done

so as well. No more evidence can be submitted once the hearing session has closed, except with my agreement.

18. The hearing will be inquisitorial, rather than adversarial. I will not permit repetition of points. Those who have submitted similar representations on the same matter or issue should consider whether their concerns can be dealt with by one or two appointed spokespeople. I shall endeavour to progress it in an effective and efficient manner, keeping a tight rein on the discussion and the time taken. In this way I aim to conduct a short, focussed, hearing to produce a short, focussed report that will address the Plan's soundness, not the detail of individual representations and objections.

The hearing timetable

19. The hearings are due to open on 9 April 2019. In due course a draft timed agenda for the hearing sessions, and a draft list of participants will be published separately on the Council's website. Regular updates to the timetable and list will be available on the Council's website, or in paper form from the PO. **It is the responsibility of individual participants to check the latest timetable for the hearings, either on the Council's website or with the PO, and to ensure that they are present at the correct time.**
20. The hearings sessions will normally start at 10.00am and 2.00pm each day, but these times may vary if longer or shorter sessions are necessary. Participants and observers should check the Council's website for confirmation of start times. Short breaks will be taken at convenient points in the mid-morning and mid-afternoon, and lunch will usually be taken at about 1.00pm.

Examination Library

21. Documents prepared by the Council are available to view on, or download from, the Council's website, with hard copies available in the Examination Library or upon request from the PO. As additional Examination Documents are produced, including participants' hearing statements, they will be added to the library. The library will therefore include all the documents that you are likely to need to refer to.

Hearing statements

22. The following provisions should be carefully read and followed. Otherwise statements will be returned.
23. A single written statement may be produced by each representor. This statement can cover any or all of the issues identified in the Inspector's Matters and Issues but should not stray beyond those issues. Written statements for the hearings must be:
 - clearly headed with the name of the representor;
 - strictly limited to no more than 5,000 words (except for those produced by the Council: see below);
 - confined to the issues and questions that I have identified;
 - no longer than is necessary to deal with their subject matter;
 - clearly related to the original representation whilst avoiding unnecessary repetition.

24. All statements should be sent to the PO to arrive by **5pm Tuesday 2nd April 2019**. All participants should adhere to the timetable for submitting statements. Late submissions and additional material (other than that invited by the Inspector) are unlikely to be accepted on the day of the relevant session. If material is not received by the deadlines stated below, the PO will assume that you are relying only on the original representations.
25. Please email electronic versions of all statements and appendices to the PO in Word or PDF format, as well as sending 3 paper copies. Statements should be prepared on A4 paper, printed on both sides and not bound, just stapled. Any photographs should be submitted in A4 format and should be annotated (on the back or front).
26. Please only submit appendices to statements where they are essential. The statement should make it clear why they are relevant. Appendices should have a contents page and be paginated throughout. They should not contain extracts from any publication that is already before the examination, such as the Submission, Supporting and Examination Documents – a paragraph number or page reference will suffice. The 5,000-word limit does not include the text in appendices, but they should also respect the aim of succinctness.
27. The Council must produce statements dealing with all my issues and questions, even if they are not subject to representations. The Council's statements must explain why they consider the Plan to be sound or compliant in that particular aspect and, if appropriate, why the changes sought by other parties would make it less sound or even unsound. They may also include any responses they wish to make to the matters raised by the original representations. Because of these additional requirements, the Council's statements are not subject to the 5,000-word limit, but they should still be succinct. They should be submitted by **5pm Friday 22nd March 2019**.
28. Hearing statements will be posted on the Examination website, so that they are available to all participants and anyone else who wishes to read them. Because they will be available in this way, they will not be circulated directly to participants. However, anyone who is unable to access them on the website may request copies from the PO.

Statements of Common Ground

29. Statements of Common Ground, agreed between two or more hearing participants, will be welcome where they would help to identify points not in (or remaining in) dispute, and so enable the hearing to concentrate on the key issues that need further testing to establish whether the plan is sound. They could, for example, include agreed wording of a suggested change to a policy, agreed factual information, or clearly-identified points of disagreement.

Changes to the plan

30. The starting point is that the Council have submitted a plan which they consider is ready for examination. At this stage there are only two means by which changes can be made to the submitted plan:

- (1) *main modifications* recommended by the Inspector
- (2) *additional modifications* made by the Council on adoption.

31. However, I can only recommend *main modifications* if they are necessary to resolve problems that would otherwise make the submitted Plan unsound or not legally compliant.¹ *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 consultation and in some cases further sustainability appraisal might also be needed
32. '*Additional modifications*' are those changes which do not materially affect the policies in the Plan.² They are made by the Council on adoption and are also sometimes referred to as 'minor modifications.' The Council is accountable for any such changes and they do not fall within the scope of the examination.

Site visits

33. Where necessary, I shall visit sites and areas referred to in the representations and statements before, during, or after the hearings. These visits will generally take place unaccompanied by any other parties, unless I need to arrange access to private land.

Closing of the examination

34. The examination will remain open until my report is submitted to the Council. However, no further representations or evidence will be accepted after the hearing has closed, unless I specifically request it. Any late unsolicited material will be returned.

Finally

35. I emphasise:
- I shall have equal regard to representations made in writing and those made orally at the hearings; and
 - any further statements should focus on my issues and questions, be succinct (respect the 5,000 word limit) and must meet the deadline of **5pm Tuesday 2nd April 2019.**

Richard McCoy

INSPECTOR
1 March 2019

¹ Under section 20(7B) & (7C) of the planning and Compulsory Purchase Act 2004

² S23(3)(b) of the PCPA 2004 "... if the additional modifications (taken together) do not materially affect the policies ..."

ANNEX A

Sources of relevant documents and advice

A. The Council's website

All documents and information for the Local Plan examination are available on the Council's website at: <http://www.lancaster.gov.uk/planning/planning-policy/examination-stage>

Among other things, it provides access to relevant Government policy and guidance. If you do not have access to the internet, documents and other information can be obtained from the Programme Officer whose details appear above.

B. Relevant legislation

These documents can be searched for and found at:
<http://planningguidance.communities.gov.uk>

- *Planning and Compulsory Purchase Act 2004*
- *Planning Act 2008*
- *Local Democracy, Economic Development and Construction Act 2009*
- *Localism Act 2011*
- *The Town and Country Planning (Local Development) (England) Regulations 2012*
- *The Environmental Assessment of Plans and Programmes Regulations 2004*