

GUIDANCE NOTE FROM THE INSPECTORS – HEARINGS

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 participate in the hearing sessions. It concerns procedural and other aspects of the Examination process.

The role of the Inspectors

2. The Inspectors' role is to determine whether the London Borough of Barnet Local Plan 2021 to 2036 (the Plan) satisfies legal requirements under the Planning and Compulsory Purchase Act 2004 and associated regulations, whether the Council has complied with the duty to co-operate and whether the Plan is sound. The Examination will be focussed on the tests of soundness as set out in the National Planning Policy Framework (the Framework) - namely that the Plan is Positively Prepared; Justified, Effective and Consistent with National Policy. **Annex A** to this Guidance Note contains a list of useful publications and websites for advice.
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 the Plan 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 Plan to demonstrate that they are sound. Nonetheless, the Council, and other interested parties, will have the opportunity to put forward suggested changes to the Plan during the Examination to address matters of soundness or legal compliance. We will take these suggestions into account.
4. We will consider all the representations duly 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 written representations. However, we are not required to report on every point made. Furthermore, in some cases, the issues we identify may not have been previously raised in the representations. It should be emphasised that our role is not to improve the Plan or to make it “more” sound but to determine whether it meets the soundness tests as it stands. For example, if an alternative version of a policy is put forward we cannot recommend it as an improvement if the policy of which it forms part is already sound. As such the focus of the Examination is in seeking compliance of the Plan in relation to legal and soundness requirements, not perfection.
5. Part of our role is to examine the soundness of the sites that are proposed to be allocated for development in the Plan as submitted. 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 our 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), we would look to the Council in the first instance to decide which alternative site(s) should be brought forward for Examination.

6. Anyone can observe the hearing sessions, however the ability to speak is not available to all, it is limited to either those with a legal right or those specifically invited by us. 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 during 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 in hearing sessions. The Council has submitted the Plan for examination and we expect it to be able to set out and justify its own position. We do not consider it necessary for those who support the Plan to participate in hearing sessions.
8. Through the Programme Officer, we 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 we would not be able to rectify non-compliance with the duty to co-operate. Any modifications that we recommend would be limited to those required to address matters of legal compliance or soundness. These would be known as “main modifications”. The main modifications would be subject to public consultation and potentially sustainability appraisal prior to our report being finalised.
9. The Examination will close when our report is submitted to the Council. The potential outcomes of the Examination are:
 - a) If we find that the Council has complied with the duty to co-operate, and that the Plan satisfies the legal requirements and is sound - we would recommend that the Plan is adopted and give reasons for this.
 - b) If we 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 such deficiencies are capable of being resolved by main modification(s) - we would make such recommendations and provide reasons, if the Council were to ask us to recommend modifications to address matters of legal compliance and/or soundness if required.
 - c) If we find that the Council has not complied with one or more of the requirements listed in part a) and such matters are not capable of being resolved by main modification(s) – we would recommend that the Plan is not adopted and give reasons for this.

10. Our report is not binding on the Council. However, if it were found to be sound and legally compliant subject to main modifications, the Council should amend the Plan in the light of our 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, we will not be considering such additional modifications during the Examination and they will not form part of our 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 Ian Kemp. He is entirely independent of the Council, has not been involved in the preparation of the Plan and works under our direction. Ian can be contacted regarding the Examination by letter to: PO Box 241, Droitwich, Worcestershire WR9 1DW, by telephone on 07723 009 166 or email: idkemp@icloud.com.
13. The main tasks of the Programme Officer are to act as a channel of communication between ourselves 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. All documents are available via the Local Plan Examination pages of the Council’s website and this will be kept up to date. If anyone has difficulty accessing the documents through the website please contact the Programme Officer.
14. During the Examination, any changes to the circulated programme of hearing sessions can be viewed on the web site at:

<https://www.barnet.gov.uk/planning-and-building/planning-policies-and-local-plan/local-plan-review/barnet-local-plan-review>
15. Alternatively, 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.
16. 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

17. The hearing sessions form part of the Examination and Stage 1 will open on **Tuesday 20 September 2022 at 9:30am** in Committee Rooms 1 and 2, Hendon Town Hall, The Burroughs, Hendon, NW4 4BG; with the intention of

sitting until Thursday 22 September 2022 that week. The second week of hearings will resume on Tuesday 4 October 2022 until Thursday 6 October 2022. There are also two virtual-only reserved sessions included in the programme to start at 9:30am on Tuesday 11 October and Wednesday 12 October respectively, if required for participants to exercise their right to be heard or for Stage 1 contingency time.

18. Stage 2 of the hearings proceeding in late early November 2022 is contingent on the Inspectors' views at the end of Stage 1 that it would be the most effective manner to progress the Examination. In that respect, Stage 2 is provisionally scheduled to commence on **Wednesday 2 November at 9:30am** in Committee Rooms 1 and 2, Hendon Town Hall, The Burroughs, Hendon, NW4 4BG; with the intention of sitting until Friday 4 November 2022 that week. A final week of Stage 2 hearings will commence at the same venue on Tuesday 8 November 2022 until Thursday 9 November 2022. A further virtual only hearing day is scheduled to take place at 9:30am on Friday 11 November 2022 to allow an appropriate level of contingency at this stage, after which the hearings will be closed.
19. More precise arrangements will be confirmed in due course in the light of further details regarding the number of participants likely to attend each hearing session. Following the closure of the hearings, the Inspectors aim to write to the Council to set out their interim findings on the specific matters upon which they are focussed, ideally before the end of the year, including any potential next steps in the Examination.
20. In terms of the running of the hearing sessions, the first session will start at 9:30am on each day with the aim to adjourn at 1:00pm, the second session will start at 2:00pm (There will be a break after the first and second sessions). The latter session of each day will aim to finish by around 5:00pm, although they may continue slightly later if necessary. Further details of the hearings, including detailed joining instructions and protocols for participants and how non-participants can observe each session, will be provided on the Examination website in due course.
21. Virtual participation will be made available for those who are unable to attend in-person. However, the detailed arrangements for such participation are to be confirmed closer to the opening of the hearings, taking into account relevant information on the number of participants likely to attend each hearing session.
22. 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 hearing sessions. Whilst the Programme Officer will endeavour to keep people informed, it is the participants' responsibility to ensure that they attend the appropriate sessions. The participants for each session will be those who made relevant representations on the Plan and have confirmed to the Programme Officer that they wish to speak.
23. All those who wish to speak at the hearing sessions (Stage 1 and Stage 2) should confirm this in writing or by e-mail to the Programme Officer **by 5pm on**

Friday 19 August 2022, stating which session or sessions they wish to speak at (referring to the Matter number and /or the specific policy and quoting the respondent reference number). 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 hearing sessions.** The finalised timetable and list of participants will be confirmed before the focussed 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.

24. We have identified a number of matters which we consider need to be explored during the hearings stage of the Examination. These are set out in the Matters, Issues and Questions document (MIQs) circulated with these guidance notes. The MIQs document sets out several issues and specific questions that will need to be addressed. The hearing sessions will allow us 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. We 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 may be circulated to participants in advance, or otherwise the Inspectors' will take forward their remaining questions following responses to MIQs.
25. 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 us. 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 within the hearing 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 be permitted, although we will give the Council an opportunity to introduce the Plan on the opening day. Depending on the number of requests to speak, for practical reasons it may be necessary to seek to identify a spokesperson where common viewpoints are being expressed.
26. Any requests for assistance in participating or observing the hearing sessions should be made to the Programme Officer as soon as possible after the publication of further guidance relating to the hearings, which will be provided well in advance.

Submission of statements and further material

27. 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 several of the matters, the Council is asked to address key points raised in representations.

28. 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. **Please note that a separate statement is required for each matter being addressed.** There is no need to repeat points already made and participants may wish to rely on these earlier representations.
29. If preparing statements, the representors should bear in mind that the Council has suggested potential modifications to the Plan within documents submitted during the Examination (compiled in document EXAM 4). In some cases, these may satisfactorily address the comments or objections made. In addition, the Council has responded to the representations made before submission of the Plan (document EXAM 1K) which may assist representors in understanding the Council's position.
30. 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, we 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 Plan be made legally compliant or sound?
 - What is the precise change that is sought?
31. The written statements should be sent to the Programme Officer electronically via email, hard copy statements will be accepted should electronic submission not prove possible. For both the Council and other participants, the deadlines for written statements are:
 - **Stage 1 (Matters 1 - 7): 5pm on Tuesday 23 August 2022, and;**
 - **Stage 2 (Matters 8 - 12): 5pm on Tuesday 6 September 2022.**
32. This is a strict deadline which must be adhered to for the hearing sessions to proceed as planned. It should be made clear who is submitting the statement (quoting the respondent reference number) and which matter it relates to. Statements for each matter should be no more than 3,000 words long, in A4 format and additional information and evidence should not be appended. Within reason, a flexible approach may be taken to the length of the Council statements required to cover matters with a large number of individual policies or questions. Separate statements should be submitted for each matter.

33. Other than the statements referred to previously, 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

34. 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 points of disagreement. Work on any further statements that the Council and other parties may wish to submit, should commence now with the aim of completing them in time to influence relevant hearing statements.

Site visits

35. Prior to the arrangement of the hearing sessions, we have familiarised ourselves with the area. We will visit the sites and key locations in the Plan and those referred to in representations as necessary during the remainder of the Examination. Unless essential to enter a site, the visits will be made on an unaccompanied basis.

Summary/ key points

- The MIQs document sets out the key questions which we will be considering at the hearing sessions.
- Stage 1 hearings will start **at 9:30am on Tuesday 20 September 2022.**
- Stage 2 hearings are provisionally scheduled to start **at 9:30am on Wednesday 2 November**, subject to Inspectors' confirmation after Stage 1.
- 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 hearing sessions (Stage 1 and Stage 2) must confirm this in writing with the Programme Officer by **5pm on Friday 19 August 2022.**
- Statements for the hearing sessions should be based on the MIQs document and must be submitted to the Programme Officer by **5pm on Tuesday 23 August 2022 for Stage 1** and **5pm on Tuesday 6 September 2022 for Stage 2.**
- 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

Mark Philpott
INSPECTOR

12 July 2022

Annex A - Sources of relevant documents and advice

The Examination website

All documents and information for the Local Plan Examination are available on the website at:

<https://www.barnet.gov.uk/planning-and-building/planning-policies-and-local-plan/local-plan-review>

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.

Government Policy and Guidance

National Planning Policy Framework:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Planning Practice Guidance:

<https://www.gov.uk/government/collections/planning-practice-guidance>

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

The above document is available at:

<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>