
Examination of the Maldon District Local Development Plan

Guidance Notes for Participants

Introduction

1. These Guidance Notes provide information about how the Local Plan will be examined, and are intended to assist with the efficient running of the Examination.
2. It is possible that some of the information set out in these Notes, including that relating to the timing of certain events, may need to be updated during the course of the Examination. Further information about how this will be done is set out below.

The Inspector and his role

3. The Inspector, David Vickery DipT&CP MRTPI, will examine whether the Local Plan been prepared in accordance with the requirements of the Planning and Compulsory Purchase Act 2004 (as amended) and associated regulations, and whether they meet the tests of soundness set out in the National Planning Policy Framework 2012 ("the Framework").
4. The Inspector will aim to work with the Council, and everyone else involved in the Examination, in a positive, proactive and pragmatic manner. Clarification on a number of matters has been sought from the Council before and after an Exploratory Meeting held on 3 July 2014, and the resulting documents have been published on the Examination website (details of which is provided below).

The Programme Officer and her role

5. Andrea Copsey is the Programme Officer for the Examination. She is acting as an independent officer under the direction of the Inspector, and is responsible for recording and circulating all material, maintaining the Examination library and website, and organising the hearings. She will act as a channel of communication between the Inspector and all parties, including the Council. Any queries about the Examination should be raised with the Programme Officer who will provide guidance and advice, having liaised with the Inspector or the Council if necessary.
6. The Programme Officer will ensure that up-to-date and comprehensive information about the Examination, and copies of all documents, can be found at the following website:

http://www.maldon.gov.uk/info/856/local_development_plan/83/maldon_district_local_development_plan_ldp/10
7. If anyone wishes to view paper copies of any of the documents they should contact the Programme Officer. Anyone who has a disability that could affect their involvement in the Examination, particularly at the hearings, should contact the Programme Officer as soon as possible for assistance.
8. The Programme Officer can be contacted as follows:

Mrs Andrea Copsey, Examination Office, Longcroft Cottage, Bentley Road, Weeley Heath, Clacton-on-Sea, Essex CO16 9BX.

Tel: 07842 643988

Email: copseyandrea@gmail.com

The Local Plan

9. 224 organisations and individuals (the representors) made a total of 693 different representations on the Plan.
10. The Inspector has agreed to take into account a large number of late responses made after the deadline closed on 12 March 2014 for the above representations, primarily from members of the public associated with the Save Maldon Action Group and the Heybridge Residents Association. The Inspector has invited those two organisations to speak at the hearing sessions on behalf of the members of the public who made late responses.
11. The Council has published changes that it recommends to the Local Plan (SD04) following its consideration of all of the representations made at the publication stage, and more after the Exploratory Meeting. These do not seem to have been subject to further consultation or sustainability appraisal and therefore, whilst the Inspector will take them into account, the document that is being formally examined is the publication version of the Local Plan as submitted in April 2014 (SD01). The Inspector will ask the Council to prepare a consolidated list of its recommended changes divided into two lists of suggested 'main modifications' and 'additional [minor] modifications' (see below).

Purpose and Scope of the Examination

12. The Council has conducted legal and procedural compliance self-assessments which conclude that all relevant requirements have been met up to the point at which it submitted the Local Plan for examination. The Inspector will, however, need to be satisfied that this is indeed the case and will therefore give this further consideration during the Examination.
13. The starting point for the Inspector's assessment is the assumption that the Council has submitted what it considers to be a sound and legally compliant Local Plan.
14. The tests of soundness are set out in the Framework. To be sound the Local Plan must be:
 - **Positively prepared:** based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;
 - **Justified:** the most appropriate strategy when considered against the reasonable alternatives, and based on proportionate evidence;
 - **Effective:** deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities; and
 - **Consistent with national policy:** enable the delivery of sustainable development in accordance with the policies in the Framework.
15. The Inspector will consider all of the representations and accepted late responses made about the Local Plan, but he will not report on every point made. Rather, they will be used to inform the Inspector's judgements about soundness and legal compliance. These judgements will also be made in the context of the objective of contributing to, and the presumption in favour of, sustainable development set out in the Framework.
16. It is not the role of the Inspector to "improve" the local Plan, but only to address any unresolved issues that would otherwise mean that the soundness and legal tests would not be met.

Main Modifications

17. The Council has asked the Inspector under section 20(7c) of the 2004 Act to recommend any necessary 'main modifications' to achieve the soundness or legal compliance of the Local Plan. This is dependent on the Inspector finding that the Council has complied with the Duty to Co-operate (s20(7B) of the 2004 Act). It is highly likely that the Council, or other parties, will suggest additional 'main modifications' during the remaining part of the Examination. If so, they will be published on the Examination website. If they are

to be recommended by the Inspector it will be necessary to ensure that others have the opportunity to comment on them, and, if appropriate, for further sustainability appraisal to be carried out. In such circumstances, the Inspector would consider any comments and appraisal as part of his assessment prior to submitting his report.

Additional Modifications

18. The Council has said it wishes to make some minor changes in addition to any 'main modifications' recommended by the Inspector before adopting the Local Plan. Such minor changes ('additional modifications') may relate to matters such as correcting typographical errors, minor editing, and factual or name changes. These would not be matters for the Inspector to consider.

Examinations Programme

19. The detailed timetable for the Examination as presently known is set out below. Further information about these stages is set out in the subsequent sections of these Notes:

Hearings on the Local Plan's Legal Compliance and Housing Policies

- Publication of the 'Matters, Issues and Questions' – **Monday 1 December 2014**.
- Deadline for submission of written hearing statements – **Friday 9 January 2015**.
- Hearing sessions start: **Tuesday 20 January 2015** (possibly 3 weeks duration).

Report on the Local Plan's Legal Compliance and Housing Policies

- The expected arrival date will be announced on the last hearing day.

Hearings and Report on the Local Plan's remaining policies

- To be decided.

20. Because a large number of procedural matters were dealt with at the Exploratory Meeting, the Inspector has decided that a Pre-Hearing Meeting will not be held. These Guidance Notes should contain all the information needed by those wanting to participate in the examination process. However, if further information, or clarification, is needed, please contact the Programme Officer.

21. Every effort will be made to keep to the timetable, but it is possible that alterations will need to be made. The Examination website (see above) will be updated regularly, including any changes to, and details about, the timetable.

22. Any comments on the above initial timetable should be received by the Programme Officer by **Friday 31 October 2014**.

Matters, Issues and Questions

23. The Inspector will send out later a list of 'Matters, Issues and Questions' relating to the Local Plan's legal compliance and policies. These will be based on his assessments in terms of soundness and legal compliance having regard to all of the representations and late responses made. These matters, issues and questions will form the basis of the discussions at the hearings.

Progressing Representations

24. Some representors (i.e. those who made legal representations before 12 March 2014) have already indicated that they wish to have their representations considered in writing only, or that they would like to discuss them at a hearing. Both methods carry the same weight, and the Inspector will have equal regard to all views whether expressed in writing or at a hearing. Those who have made late responses (after 12 March 2014) will not be able to speak at the hearings (although they can attend). They will be

represented at the hearings by the Save Maldon Action Group and the Heybridge Residents Association.

25. In the interests of fairness to all parties, it will not be possible to grant a representor any change from written representations to an appearance at a hearing made after **Friday 14 November 2014**. This is due to the additional statements that are required from attendees at hearings, and the need for these to be considered by all participants. Therefore please let the Programme Officer know before that date if you are a representor and now wish to participate at the hearings.
26. Hearings are public events, and anyone is entitled to attend in order to observe. However, only those who have made representations seeking changes to the partial reviews and have indicated that they want to participate, and the two organisations listed above, will be able to speak. The Inspector may invite other persons to appear at the hearings if he thinks that this would help with his examination tasks.

Hearings

27. The hearings programme is likely to roughly follow the order of the Inspector's 'Matters, Issues and Questions' which will be sent later. The hearings will be held at the Three Rivers Golf & Country Club, Stow Road, Cold Norton, Purleigh, Essex CM3 6RR:

<http://www.threeriversclub.com/#>
28. The hearings are intended to allow the Inspector to explore the matters, issues and questions that he has identified. The hearings will be informal, yet structured. The Inspector will chair the hearing and lead the discussion, following an agenda that will reflect the previously identified matters, issues, and questions. Participants may include professional experts and lawyers as appropriate, but there will be no cross examination unless agreed to by the Inspector. Everyone should focus on answering the Inspector's questions, and comments that have been made in writing need not be repeated in detail. There should be no attempts to formally present evidence. The Inspector will ask questions of specific participants, and will also allow others to contribute on that issue if they wish. The Inspector may give participants the opportunity to ask questions of each other. Each matter and issue will be explored as far as necessary, before moving onto the next.
29. Hearing sessions can have a large number of people present (when they will be more formally run), but some could involve considerably fewer people. Participants will be asked to introduce themselves at the outset, and all will be given the opportunity to speak. Sessions will normally run from 10.00 until 13.00 and from 14.00 until 17.00, but this will be at the discretion of the Inspector who will conduct proceedings each day to ensure maximum efficiency.

Hearing Statements

30. Those participating at hearings may provide succinct written statements that address the matters, issues and questions set out by the Inspector. It is not necessary to repeat at length material that has already been submitted. The most relevant points can be summarised when they relate to the questions, and cross-references to other submitted or published material provided. In answering the Inspector's questions, it should be made clear if it is considered that the Local Plan is unsound and, if so why (with reference to the Framework), and how it could be made sound. Where appropriate, specific alternative wording should be set out.
31. Representors that are not participating at hearings, but instead relying on the comments made in response to the publication of the Local Plan, may submit an additional written statement if they wish to directly address the Inspector's matters, issues and questions. Any such statement should adopt the same approach as that required of hearing participants (see above).

32. The Council must provide a written statement for each hearing session that addresses all of the matters, issues and questions with reference to specific parts of the relevant background documents. Any main modifications that the Council considers to be necessary to make the Local Plan sound should be clearly and fully set out. The Council's response to any main modifications suggested by third parties should also be contained in the appropriate hearing statement.
33. Written hearing statements submitted to the Programme Officer after the deadlines set by the Inspector are unlikely to be accepted. All accepted statements will be published on the Examination website (and emailed to all other participants attending the same session).
34. A format for written statements is attached as Appendix B. This, including the 3,000 word limit, must be adhered to as otherwise they may be returned by the Programme Officer for editing or not accepted at all.

Statements of Common Ground

35. Participants should attempt to reach agreement with each other as far as possible before the hearings commence. This may be on matters of fact, relevant evidence, or suggestions for main modifications. Statements of common ground can be particularly helpful. These should be submitted as part of, or alongside, the written hearing statement where possible. However, if agreement can be reached following consideration of other participants' written hearing statements, a statement of common ground may still be submitted - this should be done as far in advance of the hearing as possible.

Site Visits

36. The Inspector may make unaccompanied site visits during the course of the Examination.
37. If it is considered essential that the Inspector makes a visit to a particular site on an accompanied basis, for example due to the need to go onto private land for reasons related directly to representations already made, then this should be discussed with the Programme Office as soon as possible.

Inspector's Interim Conclusions and Report

38. At the end of the first set of hearings into legal compliance and the housing policies, the Inspector will send his interim conclusions on those aspects to the Council. If any main modifications are necessary then these will be set out in draft form.
39. There are several possible outcomes for the interim conclusions. The most serious would be a conclusion that the Local Plan is unsound, that the fault is so fundamental that it could not be corrected by a main modification, and therefore the local Plan should be withdrawn or a report issued recommending non-adoption. Alternatively, it could be concluded that the Local Plan is sound and legally compliant as submitted, and no main modifications are needed. Finally, it is possible that the Local Plan is not sound, but could be made so by way of main modifications.
40. If the Examination proceeds to a second set of hearings, at the end of these the Inspector would then issue his report under the 2004 Act. Any main modifications recommended in the Inspector's report have to be used by the Council if it wishes to adopt the Local Plan.
41. The Inspector will announce at the end of each set of the hearings the date on which he expects to send his interim conclusions or report to the Council. These will be published, and updated if necessary, on the Examination website.

Close of the Examination

42. The Examination will remain open until the report is submitted to the Council. However, no further representations or evidence will be accepted after the hearing sessions unless this has been specifically requested by the Inspector.

And Finally

43. The Inspector urges everyone to:

- Make sure they understand these Notes and what the Examination will entail, and to contact the Programme Officer as soon as possible if they have any queries.
- Adhere to the published timetable.
- Be aware of the relevant documents in the Examination library and website.
- Focus on the Inspector's forthcoming matters, issues and questions, and address these in terms of the tests of soundness set out in the Framework.
- Be explicit about any main modifications considered necessary.
- Keep looking at the Examination website and be in contact with the Programme Officer.

David Vickery

INSPECTOR

Legislation and Guidance

UK Legislation

The Planning and Compulsory Purchase Act 2004 (as amended), and the Town and Country Planning (Local Planning) (England) Regulations 2012, can be found by searching on <http://www.legislation.gov.uk>

National Policy and Guidance

The National Planning Policy Framework and Planning Practice Guidance can be found on:

<http://planningguidance.planningportal.gov.uk>

Guidance from the Planning Inspectorate

A detailed guide to examinations is available at:

http://www.planningportal.gov.uk/uploads/pins/dpd_procedure_guide.pdf

Examination and Submission Documents

The Examination web site can be found at:

http://www.maldon.gov.uk/info/856/local_development_plan/83/maldon_district_local_development_plan_ldp/10

Hearing Statements

- A. A separate statement should be submitted for each matter identified by the Inspector. You should only answer those questions that relate to the content of your original representation.
- B. None of the statements should be longer than 3,000 words. The Council may exceed this limit if replying to a large number of questions. Any submissions longer than this will be returned by the Programme Officer for editing.
- C. The Council's statements should also deal with any "Matters, Issues and Questions" that are being dealt with only by written representations and not at the hearings.
- D. Statements should be on A4 paper, printed on both sides. Any photographs should be submitted in A4 format and should be annotated.
- E. All statements must be headed with the representor's name and be clearly marked, at the top, right hand corner, with the appropriate matter number and representation reference (if any). For example, representors' statements should be referenced: Matter 1/5 for representor 5's statement on Matter 1. Please contact the Programme Officer if you do not know your number.
- F. Statements must be succinct and answer the questions asked by the Inspector. There is no need to repeat details made in your original representations, although points directly relevant to the question can be summarised and cross references provided where appropriate. 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.
- G. 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 which is already before the Examination – a paragraph or page reference will suffice. Any appendices should have a contents page and be paginated throughout. Anyone submitting appendices should say in their statement which parts they are especially relying upon.
- H. For all types of statements, four (4) paper copies must be submitted. One paper copy of each should be left loose-leaf. The remaining copies should be stapled, with no spiral binding. In addition, an electronic copy of statements and appendices must be sent as an email attachment by the deadline to the Programme Officer (in Word or PDF format). These will be placed on the Examination website for all hearing participants to download and view – they will not be sent out to participants.
- I. The deadline for statements is above and on the Examination website. Deadlines set will be for receipt of paper copies; it will not be acceptable to submit electronic copies only by those dates with paper copies following later. Late submissions and additional material are unlikely to be accepted since this can cause disruption and result in unfairness, and might result in an adjournment of the hearing. If material is not received by the relevant deadlines, the Programme Officer will assume that you are relying only on the original representations.