

EAST STAFFORDSHIRE BOROUGH COUNCIL LOCAL PLAN EXAMINATION

GUIDANCE NOTE FROM THE INSPECTOR

Note

This guidance should be kept for reference throughout the Examination. It should be read in conjunction with ***Examining Local Plans Procedural Practice – The Planning Inspectorate December 2013 (3rd Edition v.1)*** [available via the Planning Portal or from the Programme Officer] and with the attached ***Pre-Hearing Meeting Agenda [E.8], Provisional Schedule of Issues [E.9] and Indicative Programme of Hearings [E.11]***.

Document References in [italic square brackets] are to the ***Examination Library List*** which can be viewed on the Examination web page or obtained from the Programme Officer.

<http://www.eaststaffsbc.gov.uk/Planning/PlanningPolicy/LocalPlanCoreStrategy/NewLocalPlan/Pages/Examination.aspx>

Introductions

1. The appointed ***Inspector*** is ***Brian J Sims BSc(Hons) CEng MICE MRTPI***.
2. The ***Programme Officer*** (PO) is ***Amanda Willis***. The PO is not an officer of East Staffordshire Council but acts as an independent officer of the Examination under the direction of the Inspector. She is responsible for the organisation and administration of the Examination, keeps the Examination Library and provides a central point of contact for all parties. No one should attempt to contact the Inspector directly. This is in order to protect his impartiality.
3. Details of how to contact the PO are as follows:

Address:

South Staffordshire Council
Council Offices
Codsall
South Staffordshire
WV8 1PX

e-mail: programme.officer@sstaffs.gov.uk

Telephone: 01902 696318

East Staffordshire Borough Council (ESBC) will mainly be represented by:

Philip Somerfield – Head of Regulatory Services
Anna Miller – Planning Manager
Naomi Perry – Senior Planning Policy Officer

Ben Willisroft – Planning Policy Officer
Steve Payne – Housing Strategy Manager
Corinne O’Hare – Neighbourhood Planning Officer

Key Dates known at 15 August 2014

Tuesday 9 September

Issue by Inspector of Detailed Issues and Draft Programme of Hearings

Issue by Council of Schedules of post-submission changes

Tuesday 16 September 2014

Pre-Hearing Meeting

Tuesday 7 October

Position Statements submitted for Strategic Hearing Sessions

Tuesday 28 October 2014

Opening Hearing Session on Legal, Procedural and Strategic matters

To continue over the following days as necessary

The ESBC web site or the PO should be consulted on further dates and the progress of the Examination

Venue

4. The Pre-Hearing Meeting and Hearings themselves will take place at **Burton Town Hall, King Edward Place, Burton upon Trent, DE14 2EB**

Transport: Nearest train station – Burton on Trent

[Click here for Bus stops and information](#)

Parking: Pay and display car park at the rear of the Town Hall off Berkley Street.

Disabled Access: The main entrances to the Town Hall and all venue rooms are accessible for wheelchair users.

Pre-Hearing Meeting

5. The Inspector has decided to hold a Pre-Hearing (PHM) for reasons already explained to the Council [E.5]. The PHM will not address issues of soundness but will cover procedural matters relating to the relationship between the ESLP Examination and the recent public consultation on the Housing Choice Supplementary Planning Document (HCSPD) and proposed modifications to the Plan.
6. The PHM will also help to ensure that Representors are acquainted with the latest evidence and have time to take it into account before finally deciding

whether to appear at the Hearing or rely on original written representations.

7. The PHM will also provide an opportunity for any other administrative points to be covered in the interests of an efficient Examination.
8. It is desirable that those supporting a change to the Plan and seeking to appear at the Hearing Sessions should attend the PHM to express their views on any point of concern to them regarding procedure or the issues to be discussed. Equally, any representors who miss the PHM will not be placed at any disadvantage in ultimately presenting their case.

Starting Point and Purpose of the Examination

9. The basis of the Examination is the submitted ***East Staffordshire Pre-Submission Local Plan October 2013 (ESLP) [A.1]*** as published for consultation from ***18 October to 29 November 2013 [A.4]***.
10. The ***Duty to Co-operate*** [DTC] on strategic cross-boundary issues set out in the National Planning Policy Framework (NPPF) and legislation¹ must be seen to have been discharged before the Examination can proceed further. Similarly, questions of ***Legal Compliance*** are to be addressed before matters of soundness are considered. The early items on the Agenda for the first hearing session will therefore be devoted to the matters of DTC and any outstanding matter of legal compliance so that, in the event that the soundness of the ESLP is found to be seriously open to question on these grounds, the later hearings could still be postponed.
11. Otherwise the Examination is an independent check on the soundness of the ESLP concentrated mainly on whether its overall spatial strategy, quantitative provisions and allocated sites are justified and effective, in terms of the robustness of the evidence base, best choices among reasonable alternatives, deliverability, flexibility and ability to be monitored.

Planning Practice Guidance

12. The PPG [D.2], published nationally in March 2014, replaces many of the former national guidance documents on which the evidence base expressly relies. However, the PPG does not change national advice overall and substantially incorporates most of its key contents. Therefore no further broad re-consultation with respect to the PPG is necessary at this stage.
13. Even so, any comments the Council or Representors wish to make upon the PPG as to whether it affects the thrust of the Evidence Base or the soundness of the Plan will be considered. In particular, several Evidence Base documents inevitably retain references to the former guidance or the pre-publication *beta* version of the PPG. Such matters can be covered in Position Statements for the hearings or if appropriate by written representation.

¹ The Town and Country Planning (Local Planning) (England) Regulations 2012
The Localism Act 2011 Section 112

Evidence produced since the formal consultation upon and submission of the Plan

14. Representors should be aware that a substantial amount of written information has been produced since the Plan was formally subject to formal public consultation and submitted to the Planning Inspectorate for Examination on 11 April 2014 and that certain material is yet to be provided. These items of evidence are highlighted in the Library List, indicating where they update or supersede previous versions. Representors may make reference to any or all of these documents in their Position Statements and at the Hearings as may be necessary to the proper assessment of the soundness of the Plan.
15. ESBC consulted upon its **Revised Sustainability Appraisal** [A.6, A.7] until 2 May 2014 and since provided a **Schedule of the Representations** received and its responses to them [F.8, F.9].
16. ESBC has also conducted public consultation upon its draft **Housing Choice SPD** [D.26] between 4 April and 7 May 2014 and provided a schedule of the representations received and responses to them [F.11, F.16]
17. In connection with this post consultation and post-submission evidence, particular attention is drawn to:

Additional Documents

The following documents have been provided or updated since the public consultation. A.2-3, B.16, B20, C.1-2, C.8, C.14, C.43, C.65, C.73-118 and D3-34 E. and F. series - Inspector and Council Examination Documents In addition, ESBC proposes to submit a further addendum to the 2014 SHMA [C.1] before the PHM.

Initial Questions and Responses

The Inspector has raised a range of initial questions largely related to aid his understanding of the Plan and Evidence Base. However, the Council's responses to these questions are Examination Documents for to be taken into account by all Representors. [F.10, F.14, F.15]

Some of this correspondence has given rise to additional Proposed Modifications for consideration.

Proposed Modifications to the ESLP

18. From the outset ESBC has formally requested under section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended) that, should the need arise, the Inspector recommends such Main Modifications (MMs) as may be necessary to make the Plan sound.

19. Additional, minor modifications not affecting soundness (AMs) but improving accuracy or clarity may be put forward and referred to in the examination but are not themselves for examination.
20. ESBC submitted with the Plan a List of Modifications [A.27] intended to improve clarity. However the Inspector considers that some of these may justify consideration as MMs.
21. Certain further MMs are likely to become necessary as a result of Initial Questions raised by the Inspector and ESBC responses to them. The Inspector has identified the potential MMs concerned to ESBC and a separate Schedule of MMs will be produced before the PHM.
22. The MMs will be discussed as necessary at the Hearings and where alternative or additional MMs arise, these will be added to the MM Schedule for further public consultation when all representations will be taken into account before any recommendation for their adoption is made.
23. Where sites allocated in the Plan have since received planning permission since submission, these will not be considered except with respect to their contribution to housing land supply.

Relationship of the ESLP to the HCSPD Consultation

24. One aspect of soundness giving rise to a potential MM relates to the Plan's provisions for affordable housing and whether, and in what terms, these should be detailed in the ESLP itself, as distinct from the HCSPD. Where representations upon the HCSPD thus may have a bearing on the content of the ESLP, the Inspector has exercised his prerogative to invite those Representors to be heard in this examination, as an alternative to requiring further public consultation on MMs before the hearings.
25. For this reason, Representors to the HCSPD have been included in the circulation of this Guidance and associated documentation, including the invitation to the PHM.

Scope for Change

Consideration of Alternative or 'Omission' sites

26. It is **not** for the Inspector to seek to improve the ESLP or make it "more sound". The Inspector will make recommendations for MMs only where necessary to ensure soundness. It follows that, whilst Representors promoting sites not allocated in the draft ESLP have a right to be heard, **no additional or alternative ('omission') site will be recommended for allocation if the ESLP is judged on the evidence to be sound as submitted.**

Late Representations

27. ESBC has decided to accept certain late representations [A.26] and include them in the representation database. These will therefore be considered

alongside all duly made representations and those arising from the HCSPD consultation.

Written Evidence and Appearances

28. ***Equal weight will be given to the original written responses as to oral submissions. Representors seeking a change to the ESLP therefore need only exercise their right to be heard when they wish to discuss matters with ESBC and the Inspector.***
29. Before finally deciding whether to attend the Hearings or whether to rely on their Original Representations, Representors should review the post-submission documents to determine whether these are sufficient to allay their concerns.
30. ***Persons and organisations of similar point of view are urged to combine together*** because the Inspector will not allow repetition. The PO will assist in such arrangements.
31. Occasionally, the Inspector may invite a person or organisation who has not expressed a wish to appear to take part in a hearing where this would be advantageous to his understanding of the evidence.

Position Statements

32. Whilst original consultation responses were made and summarised generally on a policy by policy basis, the programme of hearings will be arranged over a series of main issues and matters for discussion which, invariably, range over several sections and policies of the Plan document. Accordingly, in order to assist all participants preparing for the Hearings and to facilitate focussed discussion, ESBC and all Representors scheduled to appear will be invited to submit a ***Position Statement*** [PS] for each session they are to attend. This must be sent to the PO ***no later than three weeks before the Hearing concerned***, setting out in ***no more than 3000 words per Hearing Session*** the ESBC or Representors' position on the issues of concern. This may be by cross-reference to original consultation responses as appropriate or Representors may choose to rely entirely upon their original representations. ***Such cross-reference should be by Rep No and page number in Document A.25 available online or from the PO.***
33. ***Three paper copies of the PSs are to be submitted to the PO for distribution to the Inspector, the Council and a copy for the Examination library. Additionally, an electronic copy is required for posting on the examination website and to enable the PO to circulate them to all participants of the Hearing sessions.***
34. ***PSs will only be accepted if they bear the name of the Representor and the Hearing to which they relate and are printable to A4 paper format without special title sheets or binding.***

35. Once the Hearing Sessions are completed the Inspector will not accept further written information from anyone unless he has himself requested it. Any unsolicited items will be returned.

Programme and Hearings

36. The Inspector will issue a more detailed Schedule of Issues and Matters for Discussion and Programme before the PHM and detailed Agendas for each session closer to the date of the Hearings.
37. It is likely that the programme will be divided between strategic and other matters with an interval between when the Inspector may reach provisional conclusions on strategic matters before proceeding to consider individual site allocations and development management policies.
38. ***The strategic Hearings are scheduled to commence at 10.00am on Tuesday 28 October 2014.*** Others will follow at times to be notified.
39. Examination Hearings are inclusive, relatively informal round table sessions where the Inspector leads a discussion on the matters of soundness he has identified from the representations and the evidence base of ESBC. These are outlined in the attached ***Provisional Schedule of Issues***. The Inspector will deal with the ***Duty to Co-operate*** and any points of ***Legal Compliance*** immediately after opening the first Hearing session. ***Where Representors have raised a matter of soundness not identified by the Inspector but still wish to appear, a suitable item will be added to an appropriate hearing session.*** If any Representor considers that an additional item is required, this should be raised with the PO at the earliest opportunity.
40. Only very exceptionally would formal cross-examination be permitted and then only in response to convincing submissions in advance that this is essential to the proper testing of the evidence on a particular point.
41. ***When invited to take part in a session, Representors on arrival are asked to find their nameplate and take their place at the table. During the discussion, the nameplate can be stood on end to indicate a wish to speak. Only one seat is provided per Representor but participants may change round during the proceedings according to their subject of interest. In view of their particular position in covering the whole Plan, two or sometimes more ESBC representatives may sit at the table, depending on the subject under discussion.***
42. ***Representors are requested to keep in touch with the PO or the ESBC Examination web page regarding the programme.*** Generally sessions are held on Tuesdays to Thursdays from 10am to 5pm with a break for lunch and short mid-session adjournments. On Fridays the Examination will sit from 10am until about 2-30pm but without a long lunch adjournment.

43. Members of the public not involved in the Hearings may of course attend to observe.

Document Library

44. The Document Library is available for consultation via the ESBC website or the PO. An updated Library List will be displayed on the website with links to electronic versions of all Documents.

Site Visits

45. The Inspector will carry out a tour of the Borough County to familiarise himself with the area. Where necessary, the Inspector will visit sites referred to in the representations, either before, during or after the Hearings, normally unaccompanied. If access might be required to private land, the PO will arrange a suitable date and time for an accompanied visit.

Inspector's Report and Close of the Examination

46. The Inspector will not complete his Report until he is satisfied that all Representations and other evidence have been taken into account and that he has gathered all the information he requires to form reasoned conclusions on any issue of soundness.
47. In line with established current practice, the Report will be as brief as possible consistent with dealing with all matters of legal compliance and soundness and will not rehearse the individual arguments of Representors. The essential focus of the Report will be upon any Main Modifications required to ensure the soundness of the ESLP.
48. The Examination itself will be formally closed on delivery of the Report to ESBC.

B J Sims
Inspector

15 August 2014