



The Planning Inspectorate

Independent Examination of the Thanet Local Plan

Examination Guidance Note

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Inspectors appointed by the Secretary of State

Date: 15 February 2019

Introduction

- 1) The *Thanet Local Plan* was submitted to the Secretary of State for Examination on 30 October 2018.
- 2) This Guidance Note provides further information on the procedural and administrative arrangements for the Examination.

The Role of the Planning Inspectors

- 3) The Local Plan is being examined by **Matthew Birkinshaw** BA(Hons) Msc MRTPI and **Victoria Lucas** LLB MCD MRTPI.
- 4) The Inspectors have been appointed by the Secretary of State. Their role is to examine whether or not the Local Plan has been prepared in accordance with the requirements of the Planning and Compulsory Purchase Act 2004 (as amended) and associated Regulations, and, whether or not it meets the tests of 'soundness' set out in the National Planning Policy Framework (the 'Framework').
- 5) The revised Framework was published in July 2018. It includes a transitional arrangement in paragraph 214 whereby, for the purpose of examining this Plan, the policies in the 2012 Framework will apply. Likewise, where national Planning Practice Guidance ('PPG') has been updated to reflect the revised Framework, the previous versions of the PPG continue to apply. Therefore, unless stated otherwise, references in this Examination Guidance Note, and the Inspectors' Matters, Issues and Questions are to the 2012 Framework and the versions of the PPG which were extant prior to July 2018.
- 6) At all times the Inspectors will aim to work with the Council and everyone else involved in the Examination in a positive and pragmatic manner.

The Role of the Programme Officer

- 7) The appointed Programme Officer is Annette Feeney. The Programme Officer is an independent Officer who is responsible for receiving, recording and distributing the Examination materials, maintaining the Examination library and organising the Hearing sessions. Communication between the Inspector and the participants is also handled by the Programme Officer, who can be contacted at:

Annette Feeney
c/o Thanet District Council
PO Box 9
Cecil Street
Margate
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- 8) The Programme Officer is also responsible for making sure that the information regarding the Examination and all relevant documents are made available on the Examination website:

<https://www.thanet.gov.uk/info-pages/local-plan-2031-examination/>

- 9) Should any participants not have access to the internet, please contact the Programme Officer so that alternative arrangements can be made.

The Examination

- 10) The Framework requires that Local Plans are prepared in accordance with the Duty to Cooperate, meet legal and procedural requirements and are 'sound'. To meet the test of soundness plans should be positively prepared, justified, effective, and consistent with national policy.
- 11) As part of this process the Inspectors will need to determine whether or not:
- The Council has complied with the Duty to Cooperate under Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended);
 - The Local Plan has been prepared in accordance with the Local Development Scheme and Statement of Community Involvement;
 - The Local Plan has been subject to an adequate Sustainability Appraisal;
 - The requirements of the Conservation of Habitats and Species Regulations 2017 have been complied with, having regard to relevant national policy and guidance, and if an appropriate assessment been carried out where necessary; and
 - Relevant publicity and procedural requirements have been met.
- 12) In terms of 'soundness' the Framework advocates that the Plan should 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 based on effective joint working on cross-boundary strategic policies; and
 - **Consistent with national policy:** enables the delivery of sustainable development in accordance with the Framework.

Changes to the Plan

- 13) The starting point is that the Council should have submitted a Plan which they consider is ready for examination.¹ At this stage there are only two means by which changes can be made to the submitted Plan:
- 'Main Modifications' recommended by the Inspectors; and
 - 'Additional Modifications' made by the Council upon adoption of the Plan.
- 14) Only the Inspectors can recommend 'Main Modifications' if they are necessary to resolve problems that would otherwise make the submitted Local Plan unsound, or not legally compliant². 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 may be required.
- 15) 'Additional Modifications' are changes that do not materially affect the plan (such as typographical errors, factual changes etc.) They are made by the Council on adoption and are sometimes referred to as 'Minor Modifications'. The Inspectors

¹ Section 20(2) of the Planning and Compulsory Purchase Act 2004

² Under section 20(7B) & (7C) of the Planning and Compulsory Purchase Act 2004

are not accountable for any such changes and they do not fall within the scope of the Examination³.

Modifications suggested by Thanet District Council

- 16) Any post-submission changes to the Local Plan which are suggested by the Council may be discussed, where appropriate, at the relevant Hearing session. It is possible that Main Modifications may also be proposed and discussed during the Hearings.

Progressing your Representations on the Plan

- 17) Only those seeking to change the plan have a right to participate in the Hearing sessions⁴. However, the sessions are open for anyone to observe.
- 18) It is important to stress that written representations carry the same weight as those made orally at a Hearing session. Consequently, participation at the Hearings is only necessary if, in light of the Matters, Issues and Questions, you have specific points you wish to contribute at the Hearing, including to any discussion.
- 19) The Inspectors' *Matters, Issues and Questions for Examination* ('MIQs') will form the basis of the discussion at the Hearing sessions. If you have any comments on this document (for example, because you feel there may be a significant omission) it is important that you contact the Programme Officer no later than **Tuesday 26 February 2019**.
- 20) Published alongside the MIQs is the *Hearing Sessions Programme*. This sets out which Matters will be discussed on each day and includes a list of participants for the relevant sessions. If you no longer wish to participate, or if you think that you should attend a different session to the one listed, please also contact the Programme Officer by **Tuesday 5 March**. You should only attend a session if you have made a relevant representation seeking a change to the Plan.
- 21) A final version of the MIQs and Hearing Sessions Programme will be published on the examination website around two weeks before the start of the hearings, if any changes have been made. It will be for participants to check the progress of the hearings, either on the website or with the Programme Officer, and to ensure that they are present at the right time.

Hearing Sessions

- 22) The sessions will be informal, but structured. They will take place in the form of a roundtable discussion led by the Inspector(s). Hearings are designed to allow the Inspector(s) to explore the matters raised in the MIQs. People may choose to be professionally represented on the day, but there will be no formal cross-examination of witnesses or any detailed presentation of evidence.
- 23) The Hearings will commence on **Tuesday 2 April 2019**. To allow for Easter they will run in two stages. The first sessions will run from 2-18 April. Except for the reserve day, they will be held in the **Ruby Room, St. Augustine's**, Canterbury Road, Westgate-on-Sea, CT8 8NL. The final two weeks of the Examination will run from 21-31 May and will be held in the **Austen Room, Thanet District Council**, Cecil Street, Margate, CT9 1XZ.

³ See paragraphs 3.4, 5.27 & 6.2 of the *Examining Local Plans Procedural Practice*

⁴ S20(6) of the PCPA 2004

- 24) The Hearing sessions will start at 10:00 unless otherwise advertised, with some sessions starting at the earlier time of 09:30 (please refer to the Examination Hearing Programme). Breaks will be taken mid-morning, over lunch and mid-afternoon.
- 25) Each session will be arranged by topic, not necessarily by policy number. It is therefore important that representors check that they have been allocated to the correct session, contacting the Programme Officer if unsure. As identified above, you should only attend a session if you have made a representation seeking a change to the Plan.
- 26) If anybody has any specific needs in relation to attending a particular session it is important that you let the Programme Officer know in advance.

Hearing Statements

- 27) The Council should produce a Hearing Statement which responds directly to all the points raised in the Inspectors' MIQs. However, there is no need to repeat any answers provided in response to the Inspectors' Initial Questions.
- 28) Any representors who have made comments seeking a change to the Plan and who are invited to the Hearing sessions may also submit Statements in response to the Inspector's MIQs. This however, is optional, and is not a requirement of the Hearings.
- 29) Statements should be concise and focused. They should not exceed a maximum of 3,000 words per Matter and appendices should only be included where directly relevant and necessary. Statements should only answer the specific Matters, Issue and Questions which are directly relevant to the original representation and should clearly identify the topic to which they relate.
- 30) Statements should be provided for each Matter separately, and not bound as a single document.
- 31) If there is a single Matter that has been raised by the Inspector, and one where several individuals (such as a group of local residents) wish to speak and make the same point, representors should consider producing a joint Hearing Statement. Please contact the Programme Officer to discuss if this is relevant.
- 32) All Hearing Statements must be submitted on time. For those hearing sessions taking place at St Augustine's (2-18 April), statements must be received in paper form or electronically no later than **5pm on Tuesday 19 March 2019**. For those hearing sessions taking place at Thanet District Council (21-31 May) statements must be received no later than **5pm on Tuesday 7 May 2019**.
- 33) Any Statements received after this deadline may be returned by the Programme Officer. Statements will be published on the Examination website so that the other participants and interested parties may have access to them.
- 34) In responding to the MIQs participants should be aware of the Council's response to the Inspectors' Initial Questions. All of these documents are available to view and download on the Examination website.
- 35) Representors that are not participating at the Hearing Sessions may also submit an additional Written Statement where necessary in direct response to the Inspector's MIQs. However, this is not an opportunity to introduce further arguments, and the format and length of Written Statements is the same as for Hearing Statements. No other written evidence can be submitted unless it is specifically requested by the Inspectors.

Statements of Common Ground

- 36) The Inspectors invite Statements of Common Ground between participants where they would assist in identifying matters in agreement, and therefore allowing the Hearing sessions to concentrate on the issues in dispute.
- 37) Where possible, Statements of Common Ground should be submitted alongside Hearing Statements. If representors are intending on submitting Statements of Common Ground, please make the Programme Officer aware.

Site visits

- 38) Prior to, and during the course of the Examination the Inspectors will make site visits to the Plan area where necessary. Site visits will be carried out on an unaccompanied basis unless it is necessary to enter private land. In such circumstances the Programme Officer will make the necessary arrangements with the relevant parties.

Consideration of Alternative Sites not in the Submission Local Plan

- 39) Part of the Inspectors' task is to examine the soundness of the sites allocated for development in the submitted Plan. Those who have submitted representations to the effect that a site allocation or designation policy is unsound will be able to put their views forward at a relevant Hearing session, if they have made a request to do so. The Council will have the opportunity to respond.
- 40) Sites that have been put forward for inclusion in the Local Plan by objectors, but which have not been selected for allocation are referred to informally as 'omission sites'. A list of these sites has been published on the Examination website. Please contact the Programme Officer if any sites have been omitted.
- 41) Representors should be aware that it is not part of the Inspectors' role to examine the soundness of the omission sites, and, subject to the legal right to be heard (see paragraphs above), such sites will not normally be discussed in detail at the Hearing sessions.
- 42) Instead, 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), the Inspectors will look to the Council in the first instance to decide which alternative or additional site(s) should be brought forward for examination. This process would be subject to consultation, and sustainability appraisal if required. Further Hearing sessions might then be required to test the soundness of any additional site(s) proposed for inclusion in the Local Plan.

Manston Airport

- 43) In July 2018 an application for an Order granting Development Consent was made, under Section 37(2) of the Planning Act (2008), for the upgrade and reopening of Manston Airport. Although both events are likely to be ongoing at the same time, participants are advised that the assessment of the Development Consent Order (the 'DCO') is separate from the Examination of the Local Plan.
- 44) Manston Airport is referred to in the supporting text on page 23 of the Plan and will be discussed during the afternoon session on Hearing Day 9 (14:00-17:00 hours). Representors who have made comments on strategic matters concerning the spatial strategy and distribution of development in the Plan should also attend Hearing Day 3.

Examination Programme

45) Based on the above, the Examination process and relevant dates are as follows:

- **15 February 2019** – publication of the *Hearing Programme, Guidance Note and Inspectors’ Matters, Issues and Questions for Examination*
- **26 February 2019** – deadline for any comments on the *Inspectors’ Matters, Issues and Questions for Examination*
- **5 March 2019** – deadline for confirming with the Programme Officer whether you wish to attend the Hearing sessions, no longer wish to be heard or wish to attend an alternative session
- **19 March 2019** – deadline for submission of Hearing Statements and Statements of Common Ground relating to those sessions to be held at St. Augustine’s running from 2-18 April 2019
- **2-4 April 2019** – Hearings Week 1 – Ruby Room, St. Augustine’s
- **9-12 April 2019** – Hearings Week 2 – Ruby Room, St. Augustine’s
- **16-18 April 2019** – Hearings Week 3 – Ruby Room, St. Augustine’s
- **7 May 2019** – deadline for submission of Hearing Statements and Statements of Common Ground relating to those sessions to be held at Thanet District Council running from 21-31 May 2019
- **21-23 May 2019** – Hearings Week 4 – Austen Room, Thanet DC
- **29-31 May 2019** – Hearings Week 5 – Austen Room, Thanet DC

Closing the Examination and the Inspectors’ Report

46) The relevant findings will be set out in the Inspectors’ Report, or in some cases, through Interim Findings. The Report will be sent to the Council at the end of the Examination and will set out the conclusions, and where necessary, any Main Modifications to make the Plan sound and/or legally compliant.

47) The Examination will remain open until the Report has been submitted to the Council. During this time no further written submissions or evidence will be taken into account unless specifically requested.

Further information

48) Further information about the preparation and examination of Local Plans can be found in the national Planning Practice Guidance and the Planning Inspectorate’s [Examining Local Plans Documents: Procedural Practice – June 2016 \(4th Edition v.1\)](http://www.planningportal.gov.uk/uploads/pins/dpd_procedure_guide.pdf) http://www.planningportal.gov.uk/uploads/pins/dpd_procedure_guide.pdf

Matthew Birkinshaw and Victoria Lucas

Inspectors
15 February 2019