

Bath and North East Somerset Council
Examination of the Bath and North East Somerset Council Local Plan
(Core Strategy and Placemaking Plan) Partial Update
Inspector: Philip Lewis BA(Hons) MA MRTPI
Programme Officer: Ian Kemp
Tel: 07723 009166
Email: idkemp@icloud.com
Address: PO Box 241, Droitwich, Worcestershire, WR9 1DW
Examination webpage: <https://beta.bathnes.gov.uk/local-plan-partial-update-lppu-public-examination>

GUIDANCE NOTE FROM THE INSPECTOR

Purpose

1. The Bath and North East Somerset Council, Local Plan (Core Strategy and Placemaking Plan) Partial Update, August 2021 (the Plan) was submitted for examination on 17 December 2021. I have been appointed by the Secretary of State to conduct the examination. This note provides guidance on the procedural and administrative arrangements for the examination.
2. Further information on the examination process can be found in the Planning Inspectorate's publication 'Procedure Guide for Local Plan Examinations' which is available via <https://www.gov.uk/guidance/local-plans>. There is also a short guide aimed particularly at those taking part in an examination for the first time.

Programme Officer

3. Ian Kemp is the Programme Officer (PO) for the examination. He is working under my direction and is independent of the Council. His contact details are given above.
4. The main tasks of the PO are to act as the channel of communication between the Inspector, the Council and all the other participants, to liaise with all parties to ensure the smooth running of the examination, to organise the hearing programme, and to oversee the publication of documents on the examination webpage.
5. Any procedural questions or other matters that you wish to raise should be directed to the PO.

Examination webpage

6. The examination webpage is hosted on the Council's website, but its content is controlled by the Inspector and the PO. All documents for the examination,

including the evidence base and the procedural material, are published on the examination webpage – the link is provided above.

7. If you do not have access to the internet, please contact the PO so that alternative arrangements can be put in place.

Inspector's role

8. My task is to consider whether the submitted Plan ("the Plan") complies with the relevant legislation and is sound. The National Planning Policy Framework (NPPF) (paragraph 35) makes it clear that in order to be found sound the Plan must be:
 - a) positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
 - b) justified – an appropriate strategy taking into account the reasonable alternatives, and based on proportionate evidence;
 - c) effective – deliverable over the plan period and based on effective joint working on cross boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - d) consistent with national policy – enabling the delivery of sustainable development in accordance with the NPPF's policies and other statements of national policy, where relevant.
9. It is not part of my role to make improvements to the Plan, provided that it is sound and legally-compliant.

The examination

10. There are three possible outcomes to the examination:
 - the submitted plan is sound and legally compliant;
 - the submitted plan is not sound and/or legally compliant but could be made so by changes (known as main modifications), if necessary following the preparation of additional evidence; or
 - the submitted plan is not sound and could not be made sound by changes. If so, I would be likely to recommend that the Council withdraws the plan. The same would apply if there is a failure of legal compliance which cannot be remedied (for example, a failure to comply with the duty to cooperate).
11. After the hearing has closed, I will prepare a report for the Council setting out my conclusions and recommendations. My report will deal with the main

issues of soundness and legal compliance, taking into account the representations made but without responding to each of them.

Changes to the plan

12. The starting point for the examination is that the Council has submitted a plan which they think is ready for examination.¹ Now that the Plan has been submitted there are only two means by which changes can be made to it:
 - a) as main modifications recommended by the Inspector; or
 - b) as additional modifications made by the Council.
13. I can only recommend main modifications if they are necessary to make the submitted Plan sound and/or legally-compliant. Any potential main modifications must be subject to consultation before I recommend them, and in some cases they may also require further sustainability appraisal.
14. Additional modifications (sometimes also referred to as “minor modifications”) are changes which do not materially affect the policies in the Plan. They may be made by the Council on adoption and do not fall within the scope of the examination. The Council is accountable for any additional modifications that are made.
15. The Council has suggested a series of changes to the Plan as the Schedule of Errata (December 2021) to the pre-submission Draft Plan. I will consider those changes and they may be discussed in the hearing sessions, but it is important to recognise that the basis for my examination is the submitted Plan, not including the suggested changes. I will only recommend changes to the submitted Plan that amount to main modifications if they are required to ensure the soundness and/or legal compliance of the submitted Plan.

Representations made on the Plan

16. The Council has prepared a Reg 22 Consultation Statement which includes details of the consultation that has taken place on the Plan, and a summary of the main issues raised in the representations.
17. A full set of the representations made on the Plan at the pre-submission (Regulation 19) stage has been provided to me and I will take them all into account. The legislation does not require me to take account of any representations made at any earlier stage, including under Regulation 18.

Examination hearing

18. The examination hearing, which forms part of the examination of the Plan, will commence at 0930 on Tuesday 21 June 2022. **The hearings for Week 1 will be held face-to-face in the Elwin Room of the Bath Royal Literary and Scientific Institution, 16-18 Queen Square, Bath, BA1 2HN. Week 2**

¹ S20(2) of the Planning and Compulsory Purchase Act 2004

Hearings will be held in the Brunswick Room of The Guildhall, High Street, Bath, BA1 5AW. The programme for the hearing [EXAM 3] is being issued at the same time as this guidance note.

19. Discussion at the hearing will be based on my matters, issues and questions [EXAM 4], which is also being issued at the same time as this guidance note. A more focussed agenda providing further guidance for the discussion will also be published in advance of one or more of the hearing sessions.

Attending the hearing

20. Anyone may attend the hearing as an observer, but only those who have made representation(s) seeking to change the Plan have a right to appear before, and be heard by, the Inspector.
21. Written representations carry the same weight as those made orally at a hearing session. Participation at the hearing is therefore only likely to be beneficial if you have specific points to contribute on the published matters, issues and questions. Normally you may only take part in the hearing session(s) that are relevant to your original representation(s).
22. If you have a right to be heard and you wish to exercise that right, you should contact the PO **by 1700 on 6 May 2022** indicating which session(s) in the published hearing programme you wish to participate in. You must do this regardless of what you may have indicated in your original representation(s). Please note that if you do not contact the PO by that date, it will be assumed that you do not wish to appear and be heard and you will not be listed as a participant.
23. Representors who are not seeking changes to the Plan, including those who have made representations supporting it, do not have a right to take part in the hearing. However, I may invite additional participants to take part in the hearing if their participation would assist me in determining the soundness and legal compliance of the Plan.
24. To ensure that there is sufficient space, organisations participating in the hearing sessions will normally be allocated one seat at the table, with members of their team “hot-seating” as necessary. Similarly, the Council should limit the number of its representatives at the table to those needed to deal with the topic under discussion.
25. Where several representors or organisations who have similar points to make wish to attend the hearing, it would assist me if they would arrange to be represented by one or two spokesperson(s).
26. Please let the Programme Officer know as soon as possible if you have any specific needs or requirements to enable your attendance at and/or participation in the hearing session(s).

Hearing statements

27. The Council should produce a statement for each hearing session responding to all the identified matters, issues and questions.
28. Other participants in the hearing sessions should only submit hearing statements if they have points to make on the identified matters, issues and questions.
29. Statements should be concise and focussed, and in any event must contain no more than 3,000 words for each matter. They should:
 - clearly identify (by reference number/letter) which specific matters, issues and questions are being answered;
 - only answer the specific matters, issues and questions which are of direct relevance to your original representation(s);
 - not introduce new evidence or arguments.
30. Please refrain from commenting on matters which go beyond the scope of my questions.
31. Appendices should only be included if they are directly relevant and necessary and should not be used as a means of increasing the word-count. In this regard, do not submit further statements in the guise of appendices. If you need to refer to a large document that is not on the examination webpage, please contact the PO as it may be more efficient for it to be added to the webpage rather than attached to a statement.
32. The Council's statements should also be focussed and succinct. However, because the Council has to answer every issue and question, it may be necessary to go over the limit of 3,000 words per matter.
33. It is intended that all examination documents will be electronic versions. Please email electronic versions of your statement(s) and any appendices to the PO in Word or PDF format **by 1700 on Monday 6 June 2022**. If you are unable to email your statement, please contact the PO so that alternative arrangements can be made.
34. Hearing statements will be posted on the examination webpage after the submission date, 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. Anyone who is unable to access them on the webpage should contact the PO.
35. Once the date for submitting hearing statements has passed, no other written evidence will be accepted, unless I specifically request it. In fairness to other participants, the hearing sessions should not be used to introduce additional evidence.

Statements of Common Ground

36. In the context of the duty to co-operate, the NPPF (paragraph 27) expects one or more statement(s) of common ground (SoCG) to be produced documenting the cross-boundary matters being addressed and progress in co-operating to address them.
37. It is often also useful for SoCGs to be drawn up between the Council and other public bodies, other participants or site promoters to confirm specific matters that have been agreed, particularly if those matters have previously been the subject of representations raising soundness or legal compliance issues. SoCGs can also helpfully highlight matters that remain in contention, or the position regarding individual allocated sites.
38. If any SoCGs are to be prepared then they should, wherever possible, be completed **by Tuesday 24 May 2022** and published as examination documents so that other representors are aware of their contents before submitting their hearing statements. This should not preclude the Council from continuing to engage on outstanding issues with other bodies and updating any SoCGs as necessary.

Conduct of the hearing sessions

39. The hearing sessions will be based on the identified matters, issues and questions as further clarified and refined by the agenda issued before the hearing sessions. Each hearing session will deal with these by way of a structured discussion which I will lead, taking an inquisitorial approach. There will be no formal presentation of cases or cross-examination. Participants may, if they wish, bring professional experts with them, although this is not essential.
40. Discussion at the hearing sessions will focus on the issues that I need to hear further discussion about, in order to reach conclusions on the soundness and legal compliance of the Plan, and on any potential need for main modifications. I will make a few brief introductory comments on the issues to be covered and then invite individuals to respond to specific questions. I will have read all the relevant representations and statements beforehand, and will expect other participants to have done so as well. The hearing sessions are not an opportunity to repeat a case already set out in written representations.

Hearing programme

41. Updates to the hearing programme, if required, will be available on the Council's webpage. It is the responsibility of individual participants to check the latest timetable and to ensure that they are present at the correct time.
42. The hearing sessions will normally start at 9.30am and 2.00pm each day. Short breaks will normally be taken at convenient points.

The scope of my examination, and omission sites

43. The Plan proposed is a partial update to the adopted Core Strategy and Placemaking Plan. The changes proposed are set out in the Schedule of Changes to the Local Plan (CD-SD001). I am concerned only with the changes proposed to the adopted Local Plan by the Council. For the avoidance of doubt, the parts of the adopted Local Plan which are not proposed to be changed are not before me in this examination. Consequently, I pose no questions about parts of the adopted plan which are not proposed to be changed.
44. Some representations are concerned with what are known as “omission sites”. These are sites which have not been allocated in the Plan for development. However, my role is to examine the soundness of the submitted Plan. It is not part of my role to examine the soundness of sites that are not allocated in the Plan. Consequently, I do not propose to hold a hearing session dealing specifically with sites that have not been allocated in the Plan, or to discuss the merits of omission sites at other session(s).
45. Should it be the case that additional sites need to be included in the Plan (for example, because an allocated site is found to be unsound), I will look to the Council to decide which alternative or additional sites should be brought forward for examination.

Site visits

46. I will carry out site visits before, during, or after the hearing as necessary to inform my assessment of the soundness of the Plan. All site visits will be unaccompanied, unless it is necessary to go onto private land, in which case I will make the necessary arrangements via the PO.

Close of the examination

47. The examination will close when my report is submitted to the Council. However, unless I specifically request them, no further representations or evidence will be accepted after the hearing sessions have finished. Late or unsolicited material may be returned.

Summary of the examination programme

14 April 2022 - Matters, issues and questions, draft hearing programme and Inspector’s guidance note published

6 May 2022 - Deadline to confirm with the PO whether you wish to exercise your right to appear at an examination hearing session

24 May 2022 - Deadline for submission of statements of common ground

6 June 2022 - Deadline for submission of hearing statements

21 June 2022 - Hearing sessions begin

Further information

48. Further information about the preparation and examination of Local Plans is available as follows:

Relevant guidance – available from <https://www.gov.uk/guidance/local-plans>

Procedure Guide for Local Plan Examinations
Short guide to taking part in local plan examinations
National Planning Policy Framework
Planning Practice Guidance, including the section on Plan-making

Relevant legislation – available at <http://www.legislation.gov.uk/>

Planning and Compulsory Purchase Act 2004 (as amended)
The Town and Country Planning (Local Planning) (England) Regulations 2012
(as amended)

Philip Lewis

INSPECTOR