

NORTH SOMERSET COUNCIL
Examination of Development Management Policies

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GUIDANCE NOTE FROM THE INSPECTOR

Purpose

1. This Note is intended to assist those who have made representations as part of the pre-submission consultation process and those who wish to appear in person. It concerns procedural and other aspects of the examination process.

Examination Hearing

2. The examination hearing for the North Somerset Development Management Policies (DMP) will take place on **Tuesday 3 and Wednesday 4 November 2015** at The Grove Suite, The Winter Gardens, Royal Parade, Weston-super-Mare, Somerset, BS23 1AJ (start time 10.00am). It will form part of my examination of this Plan and will proceed on the basis of an agenda that I will prepare shortly in advance of the hearing. I have also produced a provisional agenda at this juncture.

Inspector's role

3. My task is to consider the soundness and legal compliance of the Plan, on the basis of the relevant legislation and the guidance in the National Planning Policy Framework (NPPF). Considering soundness involves examining the Plan to determine whether it is:
 - (a) **positively prepared** – based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;
 - (b) **justified** – the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;
 - (c) **effective** – deliverable over its period and based on effective joint working; and
 - (d) **consistent with national policy** – able to achieve sustainable development in accordance with the NPPF's policies.
4. 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.
5. The starting point for the examination is that the Council has submitted what it considers to be a sound plan. Those seeking changes must demonstrate why it is unsound by reference to one or more of the tests of soundness.
6. Unresolved issues concerning soundness or legal compliance may be addressed through discussion at the examination hearing and through consideration of the original written representations. It should be emphasised that my role is not to improve the Plan or to make it "more"

sound but to determine whether or not it meets the soundness tests as it stands. For example, if an alternative version of a policy is put forward I cannot recommend it as an improvement if the Plan is already sound.

7. I have identified main issues on which the soundness of the DMP depends and these are as follows:

Issue 1: Are the policies consistent with, and do they positively promote, the visions, objectives and spatial policies contained in the Core Strategy?

Issue 2: Are the individual policies clear, justified and consistent with national policy and will they be effective?

I sent the Council some initial questions on 24 August 2015 which can be seen on the Examination website. I have requested a response to these by **Friday 16 October 2015**.

8. After the hearing has closed, I will prepare a report for the Council with my conclusions and recommendations. I will have explained the next steps in the examination process including any indication of its likely completion date at the hearing. If I find the submitted Plan to be legally compliant and sound in all respects, my report will recommend its adoption. If I find the Plan non-compliant or unsound in any respect, I can recommend main modifications to make it compliant and sound. My report will deal with the main issues concerning the soundness of the Plan, taking into account the representations received. However, it will not deal with each one individually.
9. If main modifications are proposed by the Council, adequate consultation will need to take place on them where necessary, so that the rights of interested parties are not prejudiced. Where appropriate, main modifications may also need to be covered by a revised Sustainability Assessment. The Council may then, if it so wishes, formally adopt the Plan, incorporating the recommended main modifications.

Programme Officer

10. Robert Young is the Programme Officer (PO). He can be contacted on 07948 832257 or by email at: robert.young@n-somerset.gov.uk
11. His role is to act as an impartial officer of the Examination under my direction. The main tasks of the PO are to liaise with all parties to ensure the smooth running of the examinations, to organise the hearing, to ensure that all documents are recorded and distributed as necessary. Details of the website where examination documents related to the DMP are available is given in **Annex A**. The PO can make available electronic or paper copies on request.
12. Any other procedural questions or other matters that you wish to raise with me prior to the hearing should be directed through the PO.

Progressing representations

13. Respondents have been asked by the Council whether their views should be dealt with in written form or whether they need to come and put them

across at a hearing. Both methods will carry the same weight and I shall have equal regard to views put at a hearing or in writing. Attendance at a hearing session will only be useful and helpful to me if you need to participate in a discussion concerning the soundness or legal compliance of the DMP. Those who wish to proceed by written means can rely on what they have already submitted.

14. The right to participate in a hearing extends only to those who propose changes to the Plan in order to make it sound and legally compliant and is limited to those policies or matters which were the subject of the original representation. This strictly excludes those who have simply commented on a policy in the DMP. So although anyone can attend the ability to speak is not available to all but is limited to either those with a legal right or those specifically invited. This is one of the differences of the Examination process compared to other planning procedures. There is no need for those supporting the Plan to take part in the hearing.
15. Given the nature of the issues involved further statements from those representors wishing to attend the hearing are not required to assist me. This is also because their views are already in writing and any further responses can be made orally. However, evidence on any new matter which may have arisen since the original representations were submitted can be sent to me via the PO. This might be, for example, where a new document has been produced by others or evidence has emerged that has a direct bearing on the soundness of the DMP. Any such material should, however, be provided by **Friday 16 October 2015** to allow sufficient preparation time for all parties.
16. Representors should also bear in mind that the Council has produced a schedule of proposed changes to the DMP (SD14) in the light of the representations made. In some cases this may satisfactorily address the comments or objections made. In addition the Council has responded to all of the representations made (SD13) which may assist representors in understanding the Council's position.
17. If any person or organisation wishes to change from a written representation to an appearance at the hearing or vice-versa they should inform the PO by **Friday 23 October 2015** at the latest. This is in the interests of fairness to other participants and to assist with arrangements at the hearing itself.

Hearing

18. The oral examination will be based on the issues and questions that I have identified. The hearing will deal with the individual policies and any issues in turn and will consider them by way of a structured discussion which I will lead. The hearing will not normally involve cross-examination. Those attending may, if they wish, bring professional experts with them. Barristers and solicitors, if present, will be treated as part of the respective team.
19. The purpose of the hearing is to concentrate on the matters that I need to hear about. It is not an opportunity simply to repeat a case already set out in written representations. The discussion will be structured around an agenda which will be issued in its final form shortly before the hearing

session. The emphasis will be on testing for soundness. I shall make a few brief comments on the matters I want covered, then invite individuals to make their contribution in response to the points I have raised. All participants will have an equal chance to speak.

20. I will draw those present into the discussion in such a way as to enable me to gain the information necessary to come to a firm conclusion on the issues before me. There will be no formal presentation of evidence, as I will have read all the relevant representations beforehand, and I will expect all the other participants to have done so as well. No more evidence can be submitted once the hearing session has closed, except with my agreement.
21. The hearing will be inquisitorial, rather than adversarial. I shall endeavour to progress it in an effective and efficient manner, keeping a tight rein on the discussion and the time taken. In this way I aim to conduct a short, focussed, hearing to produce a short, focussed report.

Closing the examination

22. The examination will remain open until my report is submitted to the Council. However, no further representations or evidence will be accepted after the hearing has closed, unless I specifically request it. Any late unsolicited material will be returned.

David Smith

INSPECTOR

24 August 2015

ANNEX A

Sources of relevant documents and advice

A. The Council's website

All documents and information for the Plan and examination are available on the Council's website at:

https://www.n-somerset.gov.uk/Environment/Planning_policy_and-research/localplanning/Pages/Sites-and-policies-development-plan-document-FAQs.aspx

and www.n-somerset.gov.uk/sandpexamination

If you do not have access to the internet, documents and other information can be obtained from the Programme Officer whose details appear on page 2 of this Note.

B. Relevant legislation

These documents can be searched for and found at: <http://www.opsi.gov.uk>:

Planning and Compulsory Purchase Act 2004

Planning Act 2008

Local Democracy, Economic Development and Construction Act 2009

Localism Act 2011

The Town and Country Planning (Local Development) (England) Regulations 2012

C. Guidance from The Planning Inspectorate

See: [Planning Portal - Local Plans](#) which provides a link to the following:

Examining Local Plans: Procedural Practice (December 2013 3rd edition v.1)

Examining Development Plan Documents: Learning from Experience (September 2009)