

# **Examination into the soundness of the East Herts District Plan 2011-2033 and the Welwyn Hatfield Borough Council Local Plan 2013-2032**

## **Birchall Garden Suburb**

### **GUIDANCE NOTE FROM THE INSPECTORS**

A hearing session to discuss the proposed allocation, known as Birchall Garden Suburb, to the East of Welwyn Garden City will take place on **Tuesday 30 January 2018**. It will be a joint session involving East Hertfordshire District and Welwyn and Hatfield Borough Councils, as the allocation crosses the common boundary. The hearing will form part of the examination into the soundness of both of the above Plans.

Matters and Issues for the session, issued alongside this guidance note will be the focus for these hearings.

The hearings will be held at **Welwyn Hatfield Council Chamber, Council Offices, The Campus, Welwyn Garden City, AL9 6AE**

### **Introduction**

1. The Planning Inspectors appointed by the Secretary of State for Communities and Local Government to examine the soundness of the Plans are Christine Thorby (East Herts District Plan) and Melvyn Middleton (Welwyn Hatfield Borough Council Local Plan). The purpose of this guidance note is to explain the procedural and administrative matters relating to the Examinations.

2. The Programme Officer (PO) for both Examinations is Louise St John Howe whose contact details have already been circulated but are repeated below. She is acting as an independent officer for the Examinations. Louise will be responsible for organising the hearing programme, maintaining the Examination libraries, recording and circulating all material received and assisting with procedural and administrative matters. She will also advise on any programming and procedural queries. Any matters which the Councils or participants wish to raise should be addressed, in the first instance, to the Programme Officer. She can be contacted by:

email: [louise@poservices.co.uk](mailto:louise@poservices.co.uk)

Post: Louise St John Howe, PO Services, PO Box 10965, Sudbury, Suffolk, CO10 3BF.

Tel: 07789-486419

3. Information about the progress of the Examinations and links to documents are provided on East Herts and Welwyn Hatfield's websites.

<https://www.eastherts.gov.uk/districtplan>  
<http://welhat.gov.uk/localplanexamination>

## The Inspector's role

4. The Inspectors' 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;
- (d) **consistent with national policy** – able to achieve sustainable development in accordance with the Framework's policies.

5. Further details of the examination process are set out in Procedural Practice in the Examination of Local Plans (June 2016). See **Annex A** for details of where to find this document and other useful publications and advice.

6. The starting point for the examinations is that the Councils have submitted what they consider to be a sound Plan, as the NPPF requires. Those seeking changes must demonstrate why the Plan is unsound by reference to one or more of the tests of soundness.

7. The Inspectors will seek to address unresolved issues concerning the soundness or legal compliance of the Plan through round-table discussion at the examination hearings and consideration of the original written representations. It should be emphasised that their role is not to improve the Plan, but to determine whether or not it meets the soundness tests. It is possible that further work will need to be carried out by the Councils. If that is the case, the timetable, when known, will be posted on the website.

8. After the hearings have closed, separate reports will be prepared for each Council with the Inspector's conclusions. For each Plan, if found to be legally compliant and sound in all respects, the report will recommend its adoption. If non-compliant or unsound in any respect, modifications will be recommended to make it compliant and sound. Each report will deal with the main issues concerning the soundness of the Plan, taking into account all the representations received. However, it will not deal with each individual representation.

9. Separate consultation for each authority will take place on any main modifications and where appropriate, modifications may also need to be covered by a revised Sustainability Assessment. The Councils may then formally adopt the Plans, incorporating any necessary modifications.

## Progressing your representations

10. Most representors have already indicated whether their views should be dealt with in written form or whether they feel that they need to come and discuss them orally at a hearing session. Both methods will carry the same weight and the Inspectors shall have equal regard to views put at a hearing or in

writing. Attendance at a hearing session will only be useful and helpful if you need to participate in a discussion concerning the soundness or legal compliance of the Plans.

11. Those who wish to proceed by written means can rely on what they have already submitted. The right to participate in a hearing extends only to those who have made representations and who propose changes to the Plans in order to make it sound and legally-compliant. There is no need for those supporting the Plans to take part in the hearings, although they may attend as observers. The Inspectors may invite additional participants to attend the hearings, where they consider that their presence will assist in determining the soundness of the Plan.

12. The original representations should have included all the points and evidence necessary to substantiate them, so there will be no need to submit further material based on the original representations. Any further written evidence should be limited to responding to the issues and questions which have been identified.

13. Where you have made representations on the matters identified, please let the PO know if you wish to appear at the hearing session no later than **5pm on Monday 8 January 2018**. In the interests of fairness to other participants, no additional request to appear at hearing sessions will be accepted after this date, unless there are special circumstances justifying it.

### **The hearing sessions**

14. The oral examination will take the form of a series of hearing sessions based on the matters, issues and questions. The Inspectors will lead the hearings and go through the identified issues and questions by means of a structured discussion. The hearings will not involve cross-examination, but 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.

15. The purpose of the hearings is to concentrate on the issues that the Inspectors need to hear more about. The discussion will be structured around an agenda which will be issued in its final form a week or so before the hearing session. This will not be as extensive as the Matters and Issues accompanying this note, since some of the issues will be capable of being dealt with in writing. The emphasis at the hearings will be on testing for soundness.

16. The aim of the hearings is to enable the Inspectors to gain the information necessary to come to a firm conclusion and decision on the agenda items. There will be no formal presentation of evidence, as all the relevant representations and statements will have been read beforehand. No more evidence can be submitted once the hearing session has closed, except with the Inspectors agreement.

17. The hearings will be inquisitorial rather than adversarial and will be short and focused, with careful control over the discussion and the time taken. There will be no need to repeat points made by others. Those who have submitted

similar representations on the same matter or issue should consider whether their concerns can be dealt with by one or two appointed spokespeople.

18. The Inspectors' reports will be concise and will address the Plan's soundness, not the detail of individual representations and objections.

### **The hearing timetable**

19. The hearing will take place on **Tuesday 30 January 2018**. In due course a draft timed agenda for the sessions and a draft list of participants will be published separately on the Councils' websites. Regular updates to the timetable and list will be available on the Councils' websites, or in paper form from the PO.

**It is the responsibility of individual participants to check the latest timetable for the hearings, either on the Councils' website or with the PO, and to ensure that they are present at the correct time.**

20. The hearing sessions are likely to start at 09.30am and 2.00pm each day, but these times may vary if longer or shorter sessions are necessary. Participants and observers should check the Councils' website for confirmation of start times. Short breaks will be taken at convenient points in the mid-morning and mid-afternoon, and lunch will usually be taken at about 1.00pm.

### **Examination Library**

21. Documents prepared by the Councils are available to view on, or download from, the Councils website, with hard copies available in the Examination Libraries or upon request from the PO. As additional Examination Documents are produced, including participants' hearing statements, they will be added to the libraries. The libraries will therefore include all the documents that you are likely to need to refer to.

### **Hearing statements**

**22. The following provisions should be carefully read and followed. Otherwise statements will be returned.**

23. A single written statement may be produced by each representor. This statement can cover any or all of the issues identified in the Inspectors' Matters and Issues but should not stray beyond those issues. Written statements for the hearings must be:

- clearly headed with the name of the representor and the Chapter and policy number to be addressed,
- strictly limited to no more than 3,000 words (except for those produced by the Council: see below),
- confined to the issues and questions that have been identified,
- no longer than is necessary to deal with their subject matter,
- clearly related to the original representation whilst avoiding unnecessary repetition.

24. All statements should be sent to the PO to arrive by **5pm on Friday 12 January 2018**. All participants should adhere to the timetable for submitting statements. Late submissions and additional material (other than that invited by the Inspector) are unlikely to be accepted on the day of the relevant session. If material is not received by the deadlines stated below, the PO will assume that you are relying only on the original representations.

25. Please email electronic versions of all statements and appendices to the PO in Word or PDF format, as well as sending 2 paper copies. Statements should be prepared on A4 paper, printed on both sides and not bound, just stapled in the top left hand corner. Any photographs should be submitted in A4 format and should be annotated (on the back or front).

26. Please only submit appendices to statements where they are essential. Appendices should have a contents page and be paginated throughout. They should not contain extracts from any publication that is already before the examination, such as the Submission, Supporting and Examination Documents – a paragraph number or page reference will suffice. The 3,000-word limit does not include the text in appendices, but they should also respect the aim of succinctness. If the document you wish to quote from in the hearing statement is not in the examination library, please contact the PO to arrange for its inclusion.

27. The Councils must produce statements dealing with the Inspectors issues and questions, even if they are not subject to representations. The Councils' statements must explain why they consider the Plan to be sound or compliant in that particular aspect and, if appropriate, why the changes sought by other parties would make it less sound or even unsound. They may also include any responses they wish to make to the matters raised by the original representations. Because of these additional requirements, the Councils' statements are not subject to a word limit, but they should still be succinct.

28. Hearing statements will be posted on the Examination websites, 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. However, anyone who is unable to access them on the websites may request copies from the Programme Officer.

### **Statements of Common Ground**

29. Statements of Common Ground, agreed between two or more hearing participants, will be welcome where they would help to identify points not in (or remaining in) dispute, and so enable the hearing to concentrate on the key issues that need further testing to establish whether the plan is sound. They could, for example, include agreed wording of a suggested change to a policy, agreed factual information, or clearly-identified points of disagreement.

### **Finally**

33. Please note:

- equal regard will be had to representations made in writing and those made orally at the hearings;

- any further statements should focus on the relevant issues and questions;
- the deadline is **5pm Friday 12 January 2018** for the submission of statements,
- The deadline for confirmation of appearance at the hearings is **5pm Monday 8 January 2018**.

*Christine Thorby*  
*Melvyn Middleton*  
 11 December 2018

## **ANNEX A**

### **Sources of relevant documents and advice**

#### **A. The Councils' websites**

All documents and information for the Local Plan examination are available on the Councils' websites at:

<https://www.eastherts.gov.uk/districtplan>  
<http://welhat.gov.uk/localplanexamination>

If you do not have access to the internet, documents and other information can be obtained from the Programme Officer whose details appear above.

#### **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*
- *The Environmental Assessment of Plans and Programmes Regulations 2004*
- *European Directive on Strategic Environmental Assessment (2001/42/EC)*

This document can found at: <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32001L0042>·European Directive on Strategic Environmental Assessment (2001/42/EC)

#### **C. Guidance from the Planning Inspectorate**

Procedural Practice in the Examination of Local Plans (June 2016). See: <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>