

Examination into the Welwyn/Hatfield Local Plan (2013-2032) Development Plan Document (DPD)

Pre-Hearing Notes (revised)– Issued July 2020

Dear Representor

Introduction

- The purpose of this note is to inform statutory consultees and all those who have unresolved representations, relating to the above Development Plan Document (DPD), of the further arrangements that the Inspector is making for conducting Hearings into the examination of the DPD. It is an amended version of a document that was published at the start of the Examination and subsequently revised and re-published prior to previous sets of Hearings. Its current purpose is to assist those representors who have not participated in Hearing sessions before, and to update those who have, in the procedural and evidential contexts of the forthcoming hearings into site allocations in and adjacent to the smaller settlements that are excluded from the Green Belt.
- The Inspector, Melvyn Middleton BA(Econ), Dip TP. Dip Mgmt, MRTPI has been appointed by the Secretary of State to conduct the independent Examination into the soundness of the Welwyn/Hatfield Local Plan (2013-2032) DPD. Louise St John Howe has been appointed as the Programme Officer (PO) to assist him in the examination.
- The Hearings (which are part of the overall Examination) into the Councils' DPD opened on Thursday 21st September 2017 in Welwyn/Hatfield Council chamber, Welwyn Garden City, There have been 7 sessions of Hearings to-date that have examined all matters in the plan that the Council submitted under Regulation 19 of the Planning and Compulsory Purchase Act 2004, apart from site allocations within or adjacent to the villages and other small settlements that are excluded from the Green Belt and some specialist considerations. This latest set of Hearings is intended to conclude the examination of all of the outstanding regulation 19 matters, with the exception of the Sustainability Assessment. This will be examined in the context of the revisions that the Council will need to make when it submits additional sites for residential development, to meet the shortfall in supply, to the examination. If necessary, the additional sites will also be examined at that time.
- By way of background to the examination, the Inspector would like to make the following matters clear:
 - the Examination started with the submission of the DPD and will end with the delivery of the Inspector's report, unless the Examination has to be aborted at an earlier stage;
 - the Inspector's Report will be binding on the Council but it is not bound to adopt the DPD if it chooses not to do so;
 - the changes that the Inspector himself can make to the DPD are limited to those that affect soundness;
 - changes involving clarifications will be possible; or possibly bringing the DPD into line with government policy; or deleting part of the DPD, provided the remainder is satisfactory in its own right;

- any essential changes to achieve a sound plan that have not been subject to public consultation and/or sustainability appraisal are likely to be beyond the Inspector's remit and result in the DPD being found unsound unless the Council wished to return to an earlier stage and re-run these processes;
- there can be two main ways that the DPD might be found unsound – a fundamental failure (the "showstopper"), or a cumulative failure ("death by a thousand cuts");
- all parties thus need to be aware of the implications of seeking changes.

The Inspector's task

- The Inspector's task is **to consider the soundness of the DPD**, based upon the 4 tests of soundness set out in the National Planning Policy Framework at paragraph 182. The examination will be carried out in accordance with the relevant sections of the Planning and Compulsory Purchase Act 2004 and under the provisions of the Town and Country Planning (Local Development) (England) Regulations 2012 as amended.
- Additionally, Section 112 of the Localism Act 2011 introduced a new purpose for the examination under a new section 20(5)(c) of the 2004 Act. This is to consider whether the Council has complied with any duty imposed by the new s33A – the Duty to Co-operate. The Inspector has already concluded that at the time that the Council submitted its plan, on the balance of the evidence then before him, it had met this requirement.
- Following the close of all of the hearings, the Inspector will prepare a report for the Council outlining his conclusions and any changes required to the DPD to make it sound. He will announce the expected arrival date of the report at the last hearing session, unless the Council has agreed to undertake further work. In his report, he will deal with broad issues and not with each individual representation. Depending upon the Council's progress in submitting additional sites for residential development to the Examination, the Inspector may consider it appropriate to issue an Interim Report.
- Changes that are limited to clarification or to dealing with factual updating or correction, are a matter for the Council, who will prepare a schedule of minor changes. Where more significant changes that affect soundness (main modifications (MMs)) are made, before recommending them, the Inspector will need to ensure that the rights of third parties are not prejudiced by recommendations on matters which would take them by surprise. It is very likely that the MMs will be the subject of a round of public consultation. Where appropriate, changes will also need to be covered by a revised Sustainability Assessment.

Compliance with the Procedural Soundness Test

- The Council has confirmed that it considers that it has met the statutory procedural requirements set out in the Regulations relating to the submitted version of the DPD.
- Responses were received from a number of Statutory Consultees and from third parties: -

- Copies of the responses from these organisations and other consultees can be found on the Welwyn/Hatfield Borough Councils' Examination website.

www.welhat.gov.uk > [localplanexamination](#)

- The Council has confirmed that it has carried out its own self-assessment on soundness.

The Programme Officer

- Louise St John Howe, in undertaking the role of Programme Officer (PO), is acting as an impartial officer of the Examination under the Inspector's direction. She has not been involved in the preparation of the plan or the production of material for the examination. She can be contacted by telephone on

07789486419

- and by email at

louise@poservices.co.uk

- The main tasks of the PO are to liaise with all parties to ensure the smooth running of the Examination, to organise the hearings programme, to ensure that all documents received both before and during the Hearings are recorded and distributed, and to keep the Examination Library. Copies of the Examination documents are available on its web site. If anyone has difficulty accessing or downloading information from this site, then the PO can make available electronic or paper copies on request.
- During the Examination the PO will be able to advise participants on the progress of the Examination overall and the Hearing sessions in particular.
- Any procedural questions or other matters should be made through the PO.

Representations

- Nearly 3,000 representations were received from over 2,000 organisations or individuals on the submitted DPD. Of these 116 were in full support, that is, they found the plan sound without reservation whilst a number of others were broadly in support but had minor reservations.
- Respondents have already indicated whether their views should be dealt with in a 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 Inspector will 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 wish and need to participate in a debate. The Inspector will raise matters at Hearings that have only been raised by absent representors if he considers that the points raised could affect the soundness of the plan.
- **The Inspector wishes to emphasise that his starting point for the Examination is the assumption that the Council has submitted what it considers to be a sound plan. Those seeking changes must demonstrate**

why the DPD is unsound by reference to one or more of the tests of soundness. In the context of site allocations, the four tests of soundness could be summarised as:

- The plan should have been positively prepared and in this context the proposal should relate to the overall strategy being put forward, which seeks to meet objectively assessed development and infrastructure requirements.
- The plan should be justified, and the site's selection should be consistent with the overall strategy, that having emerged from the consideration of reasonable alternatives, based on proportionate evidence.
- The plan should be effective and at a site level should be deliverable over its plan period or if it is to contribute to the five-year supply over that period commencing when the plan is adopted.
- The plan and the site's development should be consistent with national policy, enabling the delivery of sustainable development in accordance with the policies in the Framework.
- However, it must be stressed that in order to obtain a change in the allocation itself or in the Policy considerations, it must first be demonstrated why what is being put forward by the Council is unsound and secondly a suggested change in policy wording that would make it sound must be put forward. As this is not a beauty contest, discussion about alternative sites unless they relate to an obvious mistake in the Sustainability Assessment or some wholly unreasonable assumption in that document is not appropriate.

The Hearing sessions

- In view of the complexity of the plan and the very large number of representations, the Inspector decided to organise the Hearings into separate and distinct sessions.
- The first in September 2017 was concerned with the Council's meeting of the tests of Legal Soundness and the Duty to Cooperate. The second in October 2017 covered the plan's Overarching Strategy and associated Policies. In concluding on those, the Inspector found that the plan's strategy was not sound. Among other matters, that was because insufficient land was proposed for housing development in order to meet the Full Objectively Assessed Housing Need that the strategy, being advocated by the Council, required and by a considerable margin. The Inspector invited the Council to reassess the possibility of taking additional land from the Green Belt in order to meet its housing requirement, following a more detailed examination of the contribution different areas of land within the Green Belt made to its openness and purposes.
- Whilst this was being undertaken, further sets of Hearings into Topic Specific Policies and Settlement Policies/Site Allocations that were unlikely to be affected by this work, were held in 2018 and 2019.
- The Hearing format provides a relaxed and informal setting for dealing with issues, by way of a discussion led by the Inspector and with little (if any) direct cross-examination. Questioning of persons with opposing views through the Inspector will be encouraged and welcome.

- The purpose of the Hearings is to concentrate on the issues that the Inspector feels he needs to hear further about. They are not an opportunity to repeat verbatim a case already set out in representations. The discussions will focus on the Issues and Questions for Examination document, which the Inspector prepared, following his initial assessment of the LDF and an appraisal of all of the representations. This is revised into an Agenda about a week before the Hearings begin, in the light of any further submissions received and/or suggested changes made to the plan by the Council in the intervening period. **The emphasis will be on the tests of soundness.** The Inspector will make a few brief comments on the matters he wishes to have covered and then invite individuals to make their contribution in response to the points raised. The Inspector may call upon specific representors or the Council to open on a given topic and set the general scene that is to be debated, before making their specific evidential points, but **all will have an equal chance to contribute.**
- The Inspector will then draw those present into the discussion in such a way as to enable him to gain the information necessary to come to a firm conclusion and decision on the matters before him. The Inspector will have read all statements beforehand, so there will be no formal presentation of evidence. There will be an opportunity within the discussion to ask questions of the other side. **No more evidence can be submitted once a Hearing session has closed unless specifically requested by the Inspector.**
- The Hearings will be inquisitorial, rather than adversarial. The Inspector will endeavour to progress them in an effective and efficient manner, keeping a tight hand on the discussions and the time taken. As part of that process, it will be the Inspector's aim to minimise the amount of material to that necessary to come to informed conclusions on the issues of soundness. In that way he hopes to conduct a short, focused series of Hearings and, in turn, to produce a short, focused report.
- In order to run efficient sessions, the Inspector will not permit repetition of points at Hearings: a good point made ten times does not become a better point nor does a bad point made ten times become a good point.
- The main Issues that form the basis for the sessions were set out in the Issues and Questions for Examination documents produced by the Inspector. These have been reviewed by the Inspector in the context of the written statements submitted. Matters where there does not appear to be any disagreement or issues that could affect the plan's soundness are not included on the agendas. However, there is an 'other matters' item where issues that are not specifically on the agenda but are nevertheless of concern to participants, could be raised if they consider that they affect the soundness of the plan.

The Hearings Programme

- The Hearings Programme will be posted on the Examination website.

(www.welhat.gov.uk > localplanexamination)

or will be available in paper form from the PO. It may be subject to change and will be updated. It will be for individual participants to check the timing and

progress of the hearings, either on the web site or with the PO, and to ensure that they are present at the correct time. The hearing sessions will normally start at 09.30am and 2.00pm each day. A thirty-minute break will be taken mid-morning and mid-afternoon. Lunch will be taken about 1.00pm or before if the business is concluded earlier.

Evidence Base and Examination Library

- The Council has prepared a list of Core Documents that is available in the Examination Library. The list will be available for viewing on the Examination's web site. They include the National Planning Policy Framework, the National Planning Practice Guidance, key evidence documents, and other documents that the parties are likely to refer to. Any changes to the list will be shown on the web site, with paper copies available from the PO.

Statements

Statements of [Un] Common Ground

- Statements of Common or Uncommon Ground are invited where these would be helpful in identifying points that are not, or are, in dispute. This will assist the Hearings process to concentrate on the key issues that truly need public discussion. They could, for example, include agreed wording of a suggested change to a policy criterion or agreed factual information; or areas or points of disagreement.
- **This work should have already commenced, with the aim of completing it in time to feed into the relevant Hearing session.**

Form of Statements

- The Inspector's requirements for the presentation of all statements are appended as Appendix A.
- In the Statements from respondents it would be very helpful if they could give a brief concluding section stating:
 - What part of the DPD is unsound?
 - Which soundness test(s) it fails.
 - Why it fails (point to the key parts of your original representations).
 - How the DPD can be made sound.
 - The precise change/wording that is being sought.
- **If this has not already been done, then a brief supplementary statement clarifying the above information should be submitted to the Programme Officer without delay.**
- The Inspector has required Statements from the Council which say why it considers the DPD to be sound in any particular aspect and why the changes sought by other parties would make it less sound or even unsound.

Suggested changes-Proposed Minor Changes

- The Council may ask the Inspector to consider further changes to those already proposed as the examination progresses. The Inspector has asked the Council to prepare a special Examination web page – **a Schedule of Rolling Changes** - where those changes will be cumulatively listed on a regularly updated basis (a “living document”), as well as being dealt with in detail at each hearing session. Respondents should monitor this in case they wish to comment upon them.

If there are any questions arising from this note they should be passed to the Inspector through the PO.

Mel Middleton

INSPECTOR

Appendix A

Format for statements

- A. Please send email electronic versions of all Statements and Appendices to the PO (in Word or PDF format), as well as the paper copies below.
- B. Submissions should be succinct, with the avoidance of unnecessary detail and repetition of the original representation. It is the quality of the reasoning that carries weight, not the bulk of the documents. There is no need for verbatim quotations from the DPD or other sources of policy guidance. It is vital that the fundamental elements are set out clearly and succinctly – the Examination is not the place for surprise contributions!
- C. None of the statements from representors should be longer than **3,000 words**. Any submissions longer than this will be returned by the PO for editing. Statements should be prepared on A4 paper, printed on both sides, and **not bound**, just stapled.
- D. Supporting material in the form of appendices to statements should be limited to those which are **essential** and should not contain extracts from any publication that is already before the Examination, such as the Core Documents and nationally available Government guidance – a paragraph or page reference will suffice. Any appendices should have a contents page and be paginated throughout. Whilst the word limit does not include text in appendices, they should respect the aim of succinctness. Anyone submitting appendices should indicate in their statement which parts are particularly pertinent and on which they are especially relying.
- E. Those appearing at **hearings** should send sufficient copies of all statements to the PO for issuing to each participant, plus 3 (for the Inspector, the Council and the Library), e.g. if 4 people are listed for a hearing, then the PO will require 7 copies (to include one unbound, for further copying, and one hole-punched, for the Inspector).
- F. All participants should adhere to the timetable for submitting statements. **Late submissions and additional material are unlikely to be accepted on the day of the relevant session** since this can cause disruption, result in unfairness and could result in an adjournment of the hearing. If material is not received by the deadlines stated below, the PO will assume that you are relying only on the original representations:
 - Statements of Common Ground: in time to feed into Statements, or (as a last resort) at least 3 **weeks** before the relevant programmed hearing if agreed.
 - Last date for changing from written representations to a hearing appearance will be 3 weeks before the Hearing.
 - All Statements: by 2 weeks before the Hearing. (Note: the Council's Statements should also deal with the Inspector's written representations Issues, including responses – if any - to those original representations).