

Examination into the soundness of the Mid Sussex District Plan 2014-2031

GUIDANCE NOTE FROM THE INSPECTOR

The hearings on the above plan, which will begin with a session on technical housing matters only, will open on Tuesday 29 November 2016 and will form part of my examination into the soundness of the Plan.

Introduction

1. I am the Planning Inspector appointed by the Secretary of State for Communities and Local Government to examine the soundness of the Mid Sussex District Plan 2014-2031. I have prepared this guidance note. Its purpose is to explain the procedural and administrative matters relating to the Examination.
2. The Programme Officer (PO) for the Examination is **Pauline Butcher** whose contact details have already been circulated to you. She is acting as an independent officer for the Examination, under my direction. Pauline will be responsible for organising the programme of hearings, maintaining the Examination library, recording and circulating all material received, and assisting me with procedural and administrative matters. She will also advise on any programming and procedural queries. Any matters which the Council or participants wish to raise with me should be addressed to the PO. She can be contacted by:

E-mail: ldfprogrammeofficer@tiscali.co.uk
Post: 260 Collingwood Road, Sutton, Surrey, SM1 2NX
Telephone: 07823 494353

3. Information about the progress of the Examination and links to documents are provided on Mid Sussex District Council's Examination website www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/district-plan-examination/

The Inspector's role

4. 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 ('the Framework'). 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 Examining Local Plans – Procedural Practice (The Planning Inspectorate, 2013). See Annex A for details of where to find this document and other useful publications and advice.
6. My starting point for the examination is that the Council have submitted what they consider to be a sound Plan, as the Framework requires. Those seeking changes must

demonstrate why the Plan is unsound by reference to one or more of the tests of soundness.

7. I 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 my role is not to improve the Plan, but to determine whether or not it meets the soundness tests.

8. The hearings into technical housing matters will take place first to enable me to consider whether the Plan's approach towards these important matters is sound. Hearings into other aspects of the Plan will take place at later scheduled dates. After the hearings have closed, I will prepare a report for the Council with my conclusions. The timetable for what remains to be done will then be posted on the website if possible. If I find the Plan is legally compliant and sound in all respects, my report will recommend its adoption. If I find that it is non-compliant or unsound in any respect, I will recommend modifications to make it compliant and sound. My 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. If modifications are recommended, I will need to ensure that adequate consultation takes place on them where necessary, so that the rights of interested parties are not prejudiced by recommendations on matters which would otherwise take them by surprise. Where appropriate, modifications may also need to be covered by a revised Sustainability Assessment. The Council may then, if they so wish, formally adopt the Plan, incorporating the modifications which I recommend.

Number of representations

10. 762 valid representations were received on the Plan.

Progressing your representations

11. 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 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 wish and need to participate in a discussion of one or more issues concerning the soundness or legal compliance of the Plan. The housing sessions will be of a technical nature.

12. 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 propose changes to the Plan in order to make it sound and legally-compliant. There is no need for those supporting the Plan or only making comments to take part in the hearings, although they may attend as observers. I may, however, invite additional participants to attend the hearings where I think they are needed to enable the soundness of the Plan to be determined.

13. 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 I have identified. It should not merely repeat or expand on what is in the representations; neither should it stray beyond the issues to which each original representation refers.

14. If any person or organisation wishes to change from a written representation to an appearance at a hearing session or vice-versa they should inform the PO by Tuesday 8 November. 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

15. The oral examination will take the form of a series of hearing sessions based on the matters, issues and questions that I have identified. Each hearing session, which I will chair, will deal with one or two matters, and will consider the identified issues and questions by way of a structured discussion which I will lead. The hearings will not normally involve cross-examination, unless I consider it is necessary to deal with a particular issue or question. 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.

16. The purpose of the hearings is to concentrate on the issues that I need to hear further discussion about. They are not an opportunity simply to repeat a case already set out in written representations. The discussion will focus on the issues and questions I have identified, structured around an agenda which will be issued in its final form a week or so 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 contribute.

17. 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 and decision on the matters and issues before me. There will be no formal presentation of evidence, as I will have read all the relevant representations and statements 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 at my request.

18. The hearings will be inquisitorial, rather than adversarial. I shall endeavour to progress them 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, focused, series of hearings, and produce a short report.

19. In order to run efficient sessions I will not permit repetition of points at hearings. I would ask those who have submitted similar representations on the same matter or issue to please carefully consider whether your concerns could be dealt with by one or two appointed spokespeople.

The hearing timetable

20. The hearings are due to open on Tuesday 29 November 2016. In due course a draft hearings timetable and draft list of participants for the housing session will be distributed and published on the Examination website, which will be updated as necessary. Updates will also be available in paper form from the PO on request. **It is the responsibility of individual participants to check the latest timetable for the hearings, either on the Council's website or with the PO, and to ensure that they are present at the correct time.**

21. The hearings sessions will normally start at 10.00am and 2.00pm each day, but these times may vary if longer or shorter sessions are necessary. Participants and observers should check the Council's 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

22. Documents prepared by the Council are available to view on, or download from the Examination website, with hard copies available in the Examination Library or upon request from the PO. As additional documents are produced, including participants' hearing statements, they will be added to the Library. Therefore it will include all the documents that you are likely to need to refer to.

Hearing statements

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

24. A single Housing Matters statement may be produced by each representor. Further written statements to be produced for the hearings must be:

- clearly headed with the name of the representor;
- strictly limited to no more than 5,000 words (except for those produced by the Council: see below);
- confined to the issues and questions that I have identified and follow the same numbering;
- no longer than is necessary to deal with their subject matter;
- clearly related to your original representation whilst avoiding unnecessary repetition.

25. All statements should be sent to the PO to arrive by noon on Tuesday 8 November. 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 and result in unfairness, and could result in an adjournment of the hearing. If material is not received by the deadline, the PO will assume that you are relying only on the original representations.

26. Please email electronic versions of your statement and appendices to the PO in Word or PDF format, as well as sending 3 paper copies. Statements should be prepared on A4 paper, printed on both sides and not bound, just stapled. Any photographs should be submitted in A4 format and should be annotated (on the back or front).

27. Please only submit appendices to statements where they are essential. The statement should make it clear why they are relevant. Appendices should have a contents page and be paginated throughout. Accordingly, participants should not attach copied extracts from Submission Documents, Supporting Documents or Examination Documents to their statement, but should simply refer clearly to the document number and the relevant paragraph or page that they are relying on. The 5,000-word limit does not include the text in appendices, but they should also respect the aim of succinctness.

28. The Council must produce a statement dealing with all my issues and questions, even if they are not subject to representations. The Council's statement must explain why it considers the Plan to be sound or compliant in that particular aspect and 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 (including from those representors not attending the hearings). Because of these additional requirements, the Council's statement is not

subject to the 5,000-word limit, but should still be succinct and be submitted by the same deadline of 8 November.

29. Hearing statements will be posted on the Examination website, 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 website may request copies from the PO.

Statements of Common Ground

30. 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.

31. Work on them should commence now, with the aim of completing them in time to feed into the relevant hearing statement.

Site visits

32. Where necessary, I shall visit sites and areas referred to in the representations and statements before, during, or after the hearings. These visits will generally take place unaccompanied by any other parties, unless I need to arrange access to private land.

Closing the examination

33. The examination will remain open until my report is submitted to the Council. However, no further representation or evidence will be accepted after the hearings sessions have closed, unless I specifically request it. Any late unsolicited material will be returned.

Finally

34. I emphasise:

- I shall have equal regard to representations made in writing and those made orally at the hearings;
- any further statements should focus on my issues and questions;
- the need for succinctness, respecting the letter and spirit of the 5,000 word limit on any necessary further statements; and
- the importance of meeting the deadline of 8 November for the submission of statements and confirmation of participation at the hearings.

Jonathan Bore

Inspector
October 2016

ANNEX A

Sources of relevant documents and advice

A. The Council's website

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

www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/district-plan-examination/

Among other things, it provides access to relevant Government policy and guidance. If you do not have access to the internet, documents and other information can be obtained from the PO whose details appear on page 2 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*

C. Guidance from the Planning Inspectorate

Examining Local Plans – Procedural Practice (The Planning Inspectorate, 2013).

See: <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>