

GUIDANCE NOTE FROM THE INSPECTOR

Introduction

1. The hearing sessions, which are part of the overall examination into the Draft Mid Sussex Site Allocations Development Plan Document (DPD), will open on **Tuesday 1 June 2021 at 10:00** they are likely to last for three weeks and are scheduled to end on **Wednesday 16 June 2021**. **There will be no physical venue for the hearings, which are to take place virtually; please see my note for participants in Appendix C.**

The Inspector's role

2. The Inspector's role is to consider whether the DPD, which I shall refer to as the Plan meets the requirements of the Act and associated Regulations against the **tests of legal compliance, duty to co-operate and soundness**. The examination is likely to focus on the tests of soundness as set out in paragraph 35 of the National Planning Policy Framework (*the Framework*), which was published in February 2019. The relevant soundness criteria are whether the Local Plan is:
 - a) **positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed housing and other needs; and is informed by agreements with other authorities, so that the 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 policies in the Framework. Appendix A contains a list of useful publications and web sites for advice.
3. Examining plans under the current system is based on the following key considerations:
 - First, the **focus is on the Plan** rather than the objections. My role is to examine the soundness of the Plan having regard to the representations submitted and issues identified, rather than considering individual objections as such.
 - The hearings are akin to an examination in public with 'round table' or **informal hearing sessions**.
4. Through the **Programme Officer**, I shall work with Mid Sussex District Council and the examination participants in a proactive, pragmatic and solution-orientated manner. I cannot recommend as 'main modifications' changes that are merely 'improvements' which do not affect the soundness of the Plan. Nevertheless, it would be unusual if the Council did not wish to respond positively to the concerns of participants, where possible, and I shall encourage that, if appropriate.
5. **The Council may prepare a draft schedule of main modifications. If they do it will become available on the website. The Council have asked that I deal with them in the Report, which I will do, but only after everyone has had an opportunity to comment in writing on those modifications. Of course, further modifications may be suggested during the course of the hearing sessions.**

6. **If, exceptionally, more fundamental changes are proposed, such as the addition or deletion of a key site, the Council must fully explain and justify the reasons for the changes, with supporting evidence. It should also indicate the implications in terms of the soundness of the document and ensure that they have been subject to the same process of Sustainability Appraisal (SA), publicity and opportunity to make representations as with the submitted version.**
7. After the hearing sessions I prepare a **Report to the Council**, with my conclusions and recommendations as to the action(s) it needs to take regarding the soundness of the document. My report is **not binding** on the Council, but it should amend the documents in the light of my recommendations and move swiftly to formal adoption. The report will deal with broad issues and not with each individual representation.

The Programme Officer

8. The Programme Officer (PO) for the examination is Ms Charlotte Glancy. She is entirely independent of the Council and has not been involved in the preparation of the Plan and she works under my direction. Charlotte Glancy can be contacted by e-mail at bankssolutionsuk@gmail.com, by phone on 01903 776601 or 07519 628064, or by post, c/o Banks Solutions, 80 Lavinia Way, East Preston, West Sussex, BN16 1DD.
9. The main tasks of the PO are to act as a channel of communication between me and everyone involved; to liaise with all parties to ensure the smooth running of the examination, including the hearing sessions; and to ensure that all documents received are recorded and distributed. Copies of the examination documents are mainly to be found on the Council's web site (see below).
10. During the examination, the PO will be able to tell you how closely the hearing sessions are following the circulated programme. Alternatively, you will be able to view a regularly updated programme on the web site at:

[Mid Sussex Site Allocations DPD Examination](#)

11. Any participant who has a disability that could affect their contribution to the examination should contact the PO as soon as possible so that any necessary assistance can be provided. All other procedural questions or other matters that you wish to raise prior to the hearing sessions should be made through the PO.

Number of representations

12. A total of just under 1,500 respondents (persons or organisations) made 2,151 individual representations on the Submitted Plan within the consultation deadline. All the duly made representations which have been made will be taken into account in the examination insofar as they relate to my consideration of soundness.

Progressing representations

13. **The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound Plan. Those seeking changes should demonstrate why the Plan is unsound by reference to one or more of the soundness criteria set out in paragraph 2 above.** Those who are supporting the Plan, or who are not seeking changes to the Plan are not entitled to take part, although I would be willing to accept written statements.
14. The Council should rely on evidence collected whilst preparing the documents to demonstrate that the Plan is sound. Those who have made representations on the Plan should have already indicated whether those views can be dealt with in a **written form** or whether they want to take part in the virtual hearings and discuss them **orally**. Both methods carry the same

weight; I will have equal regard to views put orally or in writing. Representors should let the Programme Officer know by **17.00 on 4th May 2021** if they wish to be heard at a hearing session, irrespective of any previous indications provided during the consultation.

15. Taking part in a hearing session will only be useful and helpful to me if you wish to participate in a debate. You will all be there to help me, so you may be asked to comment on things that are not directly related to your own written submissions.
16. I may also specifically invite participants to sessions if I think that would assist the examination.
17. The hearing sessions will only discuss the issues and questions that I have raised in the Matters, Issues and Questions (MIQ) Discussion Document. If you feel that there are important matters that have not been identified for discussion or you wish to participate in a hearing session, please let the Programme Officer know by no later than **17.00 on 4th May 2021**.
18. It is important to stress the need for everyone to work together during the examination process on changes that could be made to the Plan, whilst avoiding producing so many alterations that they together might render the Plan cumulatively unsound.

The hearing sessions

19. Matters will be the subject to bespoke sessions. The format aims to provide a relaxed and informal setting for a discussion led by me. It is not necessary for those attending to be professionally represented but a professional expert may act for you if you so wish.
20. Legal representatives take part as a member of the team, not in a traditional advocate's role, as no cross-examination or opening/closing statements will normally be permitted.
21. 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 matters before me. All statements should have been read beforehand by all participants and discussions will proceed on the assumption that they have been; there will therefore be **no formal presentation of evidence**. There may be an opportunity within the discussion to ask questions of the other participants, if appropriate. **No more evidence can be submitted once the hearing session has closed, unless I expressly request it. Any unsolicited evidence will almost certainly be returned by the PO.**
22. The hearings will be inquisitorial rather than adversarial. I shall endeavour to progress them in an effective and efficient manner. As part of that process, it is my aim to minimise the amount of material necessary to come to informed conclusions on the issues of soundness. In that way I will conduct a short, focused series of hearings and, in turn, produce a short, focused report.

The hearing Programme

23. A draft Programme for the hearings, putting dates and times to the Issues and Questions, is included within the Discussion Note. If you have any queries, please raise them with the PO as soon as possible.
24. Should changes be required to the Programme, it will be updated on the examination web site. The PO will also be able to provide information on any changes. However, it will be for individual participants to check on the progress of the hearings, either on the web site or with the PO, and to ensure that they are present at the right time.
25. **The hearing sessions will start at 10.00 on the first day and then 09:30 thereafter** and will normally finish no later than 17:00. No new Matter will begin before its stated start time, but a later start may be unavoidable if discussion on a previous Matter has overrun. A

short break will be taken mid-morning and mid-afternoon. Lunch will be taken at around 13:00hrs.

The Evidence Base and Examination Library

26. The Council has prepared an evidence base list that will be available in the examination library (available online). The evidence base includes documents to which the parties are likely to need to refer. Most of these will be available on the web site, which will be regularly updated. Accordingly, parties should not attach extracts of these documents to their Statements as they are already examination documents. However, where reference is made to an examination document, the reference number should be given as should the section or paragraph where the point referred to can be found. This will allow other participants to see for themselves the context in which the point is made.

Statements of Common Ground

27. Statements of Common Ground (SCGs) are welcome where these would be helpful in identifying points not in dispute (as well as areas of disagreement), thereby assisting the hearing sessions 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, agreed factual information or areas or points of disagreement.

28. **Work on such statements should commence now with the aim of completing them in time to influence relevant hearing statements.**

Statements

29. The **Matters, Issues and Questions (MIQ) Discussion Document** sets out all the areas where I am seeking further statements. All further written statements should only address the Matters, Issues and Questions as set out in this Discussion Note.

30. All further statements, for both the hearing sessions and further written representations **must** be sent to the Programme Officer by 17:00 hrs on **Friday 14 May 2021**. This deadline relates to the receipt of both **paper copies and electronic copies**.

31. **I will not be discussing evidence on any omission sites** until and unless, following consideration of all the allocated sites in the Plan, I have come to the view that the Plan as submitted would not realistically be able to deliver the housing quantum or any other required quantum of development.

32. All statements will be placed on the examination web site as soon as possible.

Form of statements

33. Appendix B of this document sets out the requirements for the presentation of all statements. Its provisions should be thoroughly read and implemented. Statements that do not comply with these requirements will be returned. Please note the 3,000- word limit.

34. **Essentially, I need to know the following** from those submitting further statements:

- What particular part of the document is unsound?
- Which soundness test(s) does it fail?
- Why does it fail?
- How could the document be made sound?
- What is the precise change that is sought?

35. **From the Council I look for a brief response statement on each issue**, as set out in the MIQ document, setting out why they consider the Plan to be sound in that respect.

Site visits

36. By the time of the hearings I will have **toured the area covered by the Plan** to familiarise myself, and I will visit the main sites referred to in the representations before, and/or possibly after the hearing sessions. This will mostly be done unaccompanied, but I will consider any requests for an accompanied visit which may be needed, probably after the hearing sessions.

Close of the Examination

37. Once I have gathered all the information necessary to come to reasoned conclusions on the main issues, I will write the Report. The examination **remains open** until the Report is submitted to the Council; however, once the hearing sessions are over, I can receive **no further information** from any party, unless it is a matter on which I have specifically requested. Any unsolicited items sent in will be returned to the sender.

Submission of the Report to the Council

38. The report is currently expected to be submitted to the Council around **late September 2021**. However, this will be subject to review, depending on the progress of the examination.

Mike Fox

Inspector

Appendix A - List of relevant legislation and guidance

Legislation

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

Planning and Compulsory Purchase Act 2004

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

The Localism Act 2011

Government Policy and Guidance

National Planning Policy Framework (NPPF)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Guidance from the Planning Inspectorate

Procedural Practice in the Examination of Local Plans, June 2016, 4rd Edition V1

http://www.planningportal.gov.uk/uploads/pins/dpd_procedure_guide.pdf

Examination and Evidence Base Documents

The Examination web site can be found at:

<https://www.midsussex.gov.uk/planning-building/development-plan-documents/site-allocations-dpd-examination/>

Many of the above documents and most of the evidence base documents are available on-line through the web site. Submission documents can be found here:

<https://www.midsussex.gov.uk/planning-building/development-plan-documents/>

Appendix B - Format for statements

- A. Please send, where possible, e-mailed electronic versions of all Statements and Appendices to the PO (in Word or PDF format) for the examination web site. Although not required, hard copies of statements will be accepted.
- B. I emphasise the need for succinct submissions with the avoidance of unnecessary detail and repetition of the original representation. They should be focused on the **MIQ Discussion Document**.
- C. 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 Plan or other sources of policy guidance. It is vital that the fundamental elements are set out clearly and succinctly – the hearing sessions are not the place for surprise contributions!
- D. None of the statements should be longer than **3,000 words**. For the avoidance of doubt, this limit applies to statements in response to individual questions. If you chose to submit paper copies of statements, they should be prepared on A4 paper and **not bound** in any way but just stapled and hole punched. Any plans or diagrams should also be folded to A4 size and listed as Appendices.
- E. Supporting material in the form of Appendices to statements should be limited to that which is essential and should not contain extracts from any publication that is already before the examination, such as evidence base 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, the aim of succinctness should be respected. Anyone submitting appendices should indicate in their statement which parts they are especially relying upon.
- F. Please submit a separate statement for each issue covered; if your statement covers multiple issues please do not combine the content into a single statement, each statement should specifically address questions covered within an individual issue. This will assist distribution, publication and understanding during the hearing sessions.
- G. All participants must adhere to the timetable for submitting statements. Late submissions and additional material will **not be accepted** under any circumstances, since this can cause disruption and result in unfairness. If material is not received by the deadlines, the PO will assume that you are relying on your original representation:
- H. Statements to be received by the PO by **17:00 hrs on Friday 14 May 2021** (see paragraph 30 of the Notes). **Electronic statements should be sent to the PO at bankssolutionsuk@gmail.com.**
- I. **It is stressed that these deadlines refer to the receipt of both electronic and paper copies of statements. If you wish to send paper copies, please send to the Programme Officer C/O Banks Solutions, 80 Lavinia Way, East Preston, West Sussex BN16 1DD.**

Appendix C: Virtual Hearings – Inspector’s note for participants

1. **Introduction:** The technology is available to allow us to proceed with the examination of the Mid Sussex Site Allocations DPD ‘virtually’, by means of Zoom, thus overcoming the restrictions imposed by the Covid-19 pandemic.
2. Some people will be more familiar with this technology than others, and we will have to adapt, make allowances and learn from experience as we go along. I want to emphasise, however, that all our hearings will be conducted in a fair, open and impartial manner.
3. Please read this note carefully, as it sets out the procedures and rules for how the hearing sessions will be conducted.
4. **Joining the hearings as a participant:** Participants should join their session using the electronic link in their invitation. If you prefer to join by telephone or are unable to use the video option, simply dial the telephone number provided. The telephone number to ring will be provided within the invitation. You may need to enter the meeting ID and passcode provided in the invitation.
5. Watching the hearings: The sessions will be live streamed for non-participants and the public to watch on [Mid Sussex District Council's YouTube Channel](#). A link will be available on the District Council’s [Examination Webpage](#)
6. **The hearings format:** The aim is to make virtual hearings as similar as possible to physical hearings in the way they run and the way you participate.
7. Please bear in mind that the purpose of the hearings is for me to gain the information I need to examine the Plan’s soundness.
8. At the start of each hearing session, I will take appearances in the usual way. I will lead the hearing, introduce each topic and ask specific questions about the topic.
9. If you wish to respond to a question, please use the ‘raise hand’ facility in Zoom to indicate your desire to speak. I will give each of you who have raised your hands an opportunity to have your say. Only one participant may speak at a time. When you are invited to speak for the first time, turn on your video, unmute your microphone and state your name and, if applicable, who you are representing.
10. There are several issues to consider, so please make your response brief and focused and adhere to the agenda. You won’t need to repeat your full case, or give any formal presentation, as I will have read all your representations. I may ask questions about your verbal or written submissions. The format will be a structured discussion, there will not be any cross-examination and responses should always be directed to me. I will invite participants to speak in turn, so please be patient and say what you need to say.
11. If you have already spoken on a particular topic but believe that you can help further on the subject, raise your hand using the facility in Zoom. Please ensure that anything you say here is new, important and relevant which will help me get the information I need, as I will curtail the repetition of points already made.
12. Raising your hand simply to repeat what you or others have already said, or to register that you don’t agree with another participant, is not acceptable.
13. I will ask the Council for their comments on points raised. I will end the discussion on any topic when I have enough information.
14. **Documents, evidence and presentation:** The examination website contains all the relevant examination documents. These are available to all participants, stakeholders and the public. The hearing will not use the document sharing facility available on Zoom. Nor should you hold any document in front of your camera.

15. New documents should only be submitted during the hearings at my invitation. If I request a new document from any party, for example a statement of common ground, it should be e-mailed straight to the Programme Officer so that she can pass it on to me and put it in on the examination website.
16. **Conduct:** Local Plan examinations are formal events and appropriate conduct is expected. All participants, their views and evidence are treated with fairness and consideration, and participants do not interrupt each other.
17. You should dress in a manner that respects the important nature of the hearings and make your contribution respectfully.
18. To make the best use of the hearing time and to avoid disruption, the virtual hearings will start strictly at the time indicated on the agenda. You will receive an invitation from the Programme Officer to the relevant session(s).
19. You must join the hearing on Zoom at least 15 minutes before the time indicated on the agenda and you will be held in a waiting lobby until you are admitted into the hearing by the Programme Officer. Attempting to join the hearing after the time indicated on the agenda will not be acceptable and you may not be admitted.
20. You should have made appropriate arrangements to ensure that your working environment is quiet, and that the hearing (and your ability to concentrate on it) is not distracted by external noise and unnecessary distractions.
21. Please ensure that your camera is positioned to provide a clear, front-on view of your face and avoid sitting where you are silhouetted in front of a window or light.
22. It is a good idea to have a glass of water or a soft drink with you during the hearing sessions. Coffee and comfort breaks will be built into the programme.
23. Those who use Teams and Zoom may have grown used to the idea that people can come and go during virtual meetings. That does not apply, however, to examination hearings. You must make sure that you attend the hearing session(s) you are invited to from start to finish. Leaving midway may mean that you miss the opportunity to speak, hear other people's contributions, or listen to the Inspector's announcements. If you need to leave early for any reason, please inform the Programme Officer as soon as possible.
24. When adjournments are announced, please make a careful note of the resumption time and be back at your screen before that time.
25. The Zoom group chat facility will be switched off and not in use at hearing sessions. If you wish to contact the Programme Officer, you may message her or use e-mail as usual.
26. You should consider whether you are likely to need to confer with another person (Agent, legal representative, etc) during the event. If so, agree how you intend to achieve this, e.g. SMS, e-mail, WhatsApp etc before the event.
27. **Privacy:** Please have regard to the following privacy comments. You can turn your camera off if you don't want your image to be viewed. If you are dialling into the meeting using a telephone, you can keep your number private. If you wish to hide your telephone number from being seen by participants at the meeting, prefix your number by 141 or whatever alternative number your network uses to hide your number. Hiding your number will mean that if you want to speak, you will have to identify yourself on every occasion you wish to speak.
28. The hearings will be recorded for reference. Please do not make your own recording of the hearing.
29. You must ensure that no one else appears on your camera unless it has been otherwise agreed, and you should clear your background of personal information. If you prefer, Zoom allows you to blur your background, but please do not use any of the other backgrounds that are available on Zoom.

30. You must not share any personal information during the hearing, either yours or anyone else's.
31. **Use of Zoom:** To join the live video conference via Zoom, you will need to click on the link provided in the invitation. If you are intending to join using a PC, Apple Mac, iPhone or Android, you should download and install the Zoom application. If this is not possible, you can join using a Chrome browser or your desk top computer (not on your mobile phone).
32. Some people with older devices or who use corporate devices which prevent downloads being installed could experience problems. In this case, either use an alternative or contact your corporate systems administrator. Please do familiarise yourself with Zoom before joining the hearings.
33. You will be responsible for making sure your kit is functional and that you have everything in place and working to enable you to join the hearing via Zoom.
34. If you experience electronic interference during the session, try moving your mobile phone away from your computer. If you experience other connectivity issues, try switching off some other devices which share your wi-fi, or move closer to the computer.
35. If you are unable to join, or lose connection during the hearing, try again to join using the link provided in your invitation. The hearing may continue in your absence. As a backup you can re-join by telephone, using the number in the invitation. Transferring from wi-fi to mobile data or making a wi-fi hotspot using a mobile phone are other contingencies that you may wish to use. If you experience any difficulty joining or any technical issues, please contact the PO.
36. The Programme Officer and Council will invite participants to a test event for a specific day at least two weeks prior to hearings. The Programme Officer will contact participants seeking confirmation from those who may wish to participate in the test event. Please note, this is to familiarise yourself with the technology. Discussion on the Site Allocations DPD will not be permitted.