

MAIDSTONE BOROUGH LOCAL PLAN EXAMINATION

Inspector: Mr. Robert Mellor BSC DIPTRP DIPDBE DMS MRICS MRTPI

PROCEDURAL GUIDANCE NOTE FROM THE INSPECTOR

Notes

This guidance is issued in place of a pre-hearing meeting and should be kept for reference throughout the Examination.

It should be read in conjunction with the ***Agenda of Matters Issues & Questions*** for each hearing session

Document References in [*italic square brackets*] are to the Examination Library.

Introductions

1. The appointed ***Inspector*** is:

Robert Mellor BSc DipTRP DipDesBEnv DMS MRTPI MRICs.

2. The ***Programme Officer*** (PO) is ***Louise St. John Howe***. The PO is an independent officer of the Examination. She is responsible for the organisation and administration of the Examination, keeps the Examination Library and provides a central point of contact for all parties. The PO also ensures that all the documentation for the examination is received, recorded and placed on the examination website. No one should attempt to contact the Inspector directly. This is in order to protect his impartiality.

3. Details of how to contact the PO are as follows:

Address: PO Services, PO Box 10965, SUDBURY, Suffolk CO10 3BF

e-mail: louise@poservices.co.uk

website:

<http://www.maidstone.gov.uk/residents/planning/local-plan/examination>

Telephone: 07789 486419

4. Maidstone Borough Council (MBC) will mainly be represented by:
- Rob Jarman; Head of Planning and Development
 - Tony Fullwood; Planning Consultant
 - Sarah Anderton; Principal Planning Officer
 - Andrew Thompson; Principal Planning Officer.....

Hearings and Venue

5. The Hearings will take place at Maidstone Town Hall, High Street, Maidstone, ME14 1TF. Tel: 01622-602183, commencing at **10.00am on Tuesday 4 October, 2016.**

Transport: Trains: There are two rail stations in the town, Maidstone West which serves the Medway Valley Line, and Maidstone East serving the Victoria line. Bus: There are bus stops close to the Town Hall. Please click the link below to plan your route.

<http://www.kent.gov.uk/roads-and-travel/travelling-around-kent/bus-travel/bus-routes-and-maps>

Parking:

There is a long term car park close to the Town Hall at Lock Meadow, Barker Road, ME16 8SF. There is also a park and ride service, and details are available from the website:-

<http://www.maidstone.gov.uk/residents/parking-and-streets/park-and-ride>

Refreshments: Tea and coffee will be provided before the morning and afternoon sessions start each day. The Town Hall is right in the centre of Maidstone and there is good choice of places for lunch, and further refreshments, close by.

Starting Point and Purposes of the Examination

6. The basis of the Examination is the **Maidstone Borough Local Plan Publication (Regulation 19)¹ February 2016** (LP) [SUB 001] as published for public consultation from 5 February 2016 to 18 March 2016. That draft document was submitted for Examination on 20 May 2016.
7. The Inspector has been appointed to carry out an independent examination of the plan to determine legal compliance and soundness and subsequently produce a report to Maidstone Borough Council
8. The **Duty to Co-operate** (DtC) on strategic cross-boundary issues vested in the National Planning Policy Framework (the Framework) and legislation² must be seen to have been discharged before the Examination can proceed further. Similarly,

¹ The Town and Country Planning (Local Planning) (England) Regulations 2012

² The Town and Country Planning (Local Planning) (England) Regulations 2012
The Localism Act 2011 Section 112

questions of **Legal Compliance** are to be addressed before matters of soundness are considered.

9. Otherwise the Examination is an independent check on the soundness of the LP. The Framework provides at paragraph 182 that a 'sound' plan is one that is:
- **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
 - **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
 - **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
 - **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

Scope for Change

10. This is not an examination of the objections to the Plan or to hear suggestions for how a Plan policy that is judged to be sound could be improved or for other policies to be added.
11. It is **not** for the Inspector to seek to improve the LP or make it "more sound". The Inspector will make recommendations for **Main Modifications** only where necessary to ensure soundness. MBC³ has formally requested that the Inspector make such recommendations if he considers that modifications are necessary for the LP to be sound.
12. At its meeting on 18 April 2016 the MBC Strategic Planning Sustainability and Transportation Committee considered a Report on the representations received during the Regulation 19 consultation in February-March 2016
- <https://services.maidstone.gov.uk/meetings/ieListDocuments.aspx?CIId=579&MIId=2616>
13. MBC has subsequently issued a **Schedule of Proposed Changes to the LP [SUB 010]**. These proposed changes are not yet part of the Plan as submitted. They will be considered as part of the Examination together with any other modifications that are proposed by the Council or others during the Examination. Those modifications that may be necessary to address issues of soundness will need to be the subject of further public consultation before the Inspector concludes his Report and recommendations to the Council.

Consideration of Alternative or 'Omission' sites

14. Representors who are promoting sites not allocated in the publication draft LP have a right to be heard if they wish. However **no additional or alternative ('omission') site will be recommended for allocation if the LP judged on the evidence to be sound as submitted**. The Examination will not concern it-

³ under section 20(7C) of the Planning and Compulsory Purchase Act 2004

self with additional modifications making minor corrections or updates that do not affect soundness.

Representations not Duly Made

15. The Council has indicated that they will not accept representations that were received after 18 March 2016. In the event that questions arise concerning representations not duly made during the two formal consultation periods, these should be directed to MBC to consider in each case whether a late representation should exceptionally be placed before the Examination. The Inspector will only consider late representations if they have first been accepted by MBC.

Evidence and Appearances

16. **'Representors'** are those who have submitted representations at the formal consultation stage in February-March 2016. Many have responded to the question on the representation forms asking whether they wished to appear at the examination hearings. ***However if they have not done so, or if they have since changed their minds, they should contact the Programme Officer as soon as possible.***
17. Only those Representors who are seeking a change to the submitted Local Plan (including the schedule of changes) are entitled to appear at the examination as **'Participants'**. Those who support the Local Plan may not appear unless they are invited to do so by MBC, in which case they would be appearing as a witness on behalf of MBC.
18. Before finally deciding whether to attend the Hearings or whether to rely on their original written representations, Representors should review the MBC Proposed Changes [SUB 010] to determine whether they are sufficient to allay their concerns. If the changes have suitably addressed their original concerns they may no longer wish to appear. They may also wish to consider withdrawing their original representation on either a conditional or unconditional basis. In either case they should please advise the Programme Officer as soon as possible.
19. ***Equal weight will be given to the original written responses as to oral submissions. Representors seeking a change to the LP therefore need only exercise their right to be heard when they wish to discuss matters with MBC and the Inspector.***
20. ***Persons and organisations of similar point of view are urged to combine together*** (such as the Yalding residents and others who submitted identical written representations). The Inspector will not be assisted by repetition of the same viewpoints. The PO will assist in such arrangements. The Kent Association of Local Councils and the Joint Parishes Group have both indicated that they will seek to coordinate participation in the Examination by their members. That would helpfully reduce unnecessary duplication or repetition of similar views.
21. Occasionally, the Inspector may invite a person or organisation who has not expressed a wish to appear to take part in a hearing where this would be advantageous to his understanding of the evidence.
22. The hearings are expected to be broadcast by webcam. Any participants with questions or concerns about this should contact the Programme office before the hearing.

Procedure, Hearings, Issues, Programme

23. The Examination will proceed to the Hearings on the basis of the original Representations. There will be no Pre-Hearing Meeting.
24. ***The Hearings will commence at 10.00 am on Tuesday 4 October 2016.***
25. The PO will issue a Programme of Hearings. The programme may be subject to change and those participating in the hearings are asked to keep up to date by consulting the website or contacting the Programme Officer.
26. The website will include lists of participants for each hearing. Where participants have interests in different subject matters they may be asked to appear more than once at different hearings. Should participants wish to reduce the number of appearances they may suggest that they rely on their original written submission for some matters. Also, where for example a number of submissions relate to a participant's interest in a particular development site it may be possible to cover them in one site specific session even though they address different parts of the plan. **Participants should contact the PO should they wish to withdraw from a hearing session or to attend a different session.**
27. The Inspector will issue an Agenda for each session setting out **Matters, Issues and Questions** to be addressed.
28. Whilst it is not essential, the Inspector will invite the participants in hearing sessions who want to comment on the questions posed in the agendas and which are of relevance to their own previous submissions to submit **written statements** of limited length (not more than 3,000 words for each hearing). The Council may submit a longer statement as it needs to address all the questions.
29. The **deadlines for return of written statements** from Hearings Participants and any other invited Representors to the Programme Officer before the start of the hearings to which they relate will be shown on the agendas for each session.

Outline Draft Programme

30. A draft Programme of Hearings is being issued as a separate document. It is liable to change and will be updated on the examination website.
31. An agenda will be issued for each session which will set out the matters and issues identified by the Inspector together with relevant questions.

Written Statements

32. All statements by Participants must be focussed on the defined issues and questions. It is not necessary to respond to questions that are not relevant to the original representations.
33. The Inspector and Participants must have sufficient time to absorb the contents of the statements. Late submission of statements causes difficulties for all parties and only in exceptional circumstances will the Inspector consider rearranging any hearing sessions to accommodate late submissions.

34. MBC should submit its statements within the same deadline as other participants. The examination process does not seek a response to every objection. Like everyone else, MBC is invited to address the Inspector's Matters, Issues and Questions. However, in some instances the Inspector may decide that there would be advantages in having a response from MBC to particular statements from Representors and in these circumstances a date for the response will be set.
35. Representors who have decided not to attend the hearings may also submit written statements provided that:
 - Their original representations relate to the matter being discussed
 - They were seeking a change to the plan in those original representations
 - They are responding to relevant questions on the agenda

Procedure at Hearings

35. After opening the first hearing session the Inspector will deal first with the ***Duty to Co-operate*** and any points of ***Legal Compliance***.
36. Examination Hearings are inclusive, relatively informal round table sessions where the Inspector will lead a discussion on the matters of soundness he has identified from the representations and the Local Plan evidence base, all as outlined in the Agenda of Matters and Issues for Questions. ***Where Representors have raised a matter of soundness not identified by the Inspector but still wish to appear, they may request that a suitable item is added to the agenda.***
37. Only very exceptionally would formal cross-examination be permitted and then only in response to convincing submissions in advance that this is essential to the proper testing of the evidence on a particular point.
38. When invited to take part in a session, Representors on arrival are asked to find their nameplate and take their place at the table. During the discussion, the nameplate can be stood on end to indicate a wish to speak. Normally only 1 seat is provided per Representor but participants may change round during the proceedings according to their subject of interest. In view of their particular position in covering the whole LP, 2 or sometimes more MBC representatives may sit at the table, depending on the subject under discussion.
39. ***Representors are requested to keep in touch with the PO or the MBC LP Examination web page regarding the programme.*** Generally sessions are held on Tuesdays to Thursdays from 10am to 5pm with a break for lunch and short mid-session adjournments. Additional sessions may be held on Friday mornings if required to complete discussion.
40. Members of the public not participating in the Hearings may of course attend to observe.

Technical Seminar

41. In addition to the hearings, the draft Programme includes a proposed Technical Seminar on Transport Matters. The Council is preparing additional transport evidence and the purpose of the seminar is for the new evidence to be explained and so that the inspector can ask questions. Other persons may attend to observe the seminar but will not be invited to take part in the discussion or to present their views on transport matters. These will be discussed at subsequent relevant hearings.

Examination Library

42. The Examination Library contains the documents that form the evidence base for the Plan together with existing plans, the National Planning Policy Framework and any other relevant national guidance, committee reports, research reports and any other information likely to be used during the examination.
43. The Library is available for consultation via the MBC website or the PO. An updated Library List will be displayed on the website with links to electronic versions of Examination Documents.

Site Visits

44. The Inspector will visit the Borough to familiarise himself with the area. Where necessary, the Inspector will visit sites referred to in the representations, either before, during or after the hearings, normally unaccompanied, save where access might be required to private land. In that case the PO will arrange a suitable date and time for an accompanied visit.

Inspector's Report and Close of the Examination

45. The Inspector will not complete his Report until he is satisfied that all Representations and other evidence have been taken into account and that he has gathered all the information he requires to form reasoned conclusions on any issue of soundness.
46. In line with established current practice, the Report will be as brief as possible consistent with dealing with all matters of legal compliance and soundness and will not rehearse the individual arguments of Representors. Apart from concluding on whether the Local Plan is legally compliant, the essential focus of the Report will be whether the Local Plan is sound and, if not, whether it can be made sound by the inclusion of any recommended Main Modifications.
47. The Examination itself will be formally closed on delivery of the Report to MBC.

Robert Mellor

INSPECTOR

8th August, 2016