

NOTTINGHAMSHIRE COUNTY COUNCIL

Examination of the Nottinghamshire Minerals Local Plan

Inspector: Nick Palmer BA(Hons) BPI MRTPI

Programme Officer: Ian Kemp

Address: PO Box 241, Droitwich, Worcestershire, WR9 1DW

Tel: 07723 009166

Email: idkemp@icloud.com

GUIDANCE NOTE FROM THE INSPECTOR

Purpose

- 1 This Note is intended to assist those who have made representations on the Nottinghamshire Minerals Local Plan (MLP) as part of the pre-submission consultation process and those who wish to appear in person at the hearings. It concerns procedural and other aspects of the examination process.

Examination Hearings

- 2 The MLP will be examined at hearing sessions commencing on 28 April 2020 at the Assembly Hall, County Hall, West Bridgford, Nottingham. The hearings will form part of the overall examination of the MLP and will proceed on the basis of a timetable that will be prepared in advance.

Inspectors' role

- 3 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** – providing a strategy which seeks to meet the area's objectively assessed needs, 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 its period and based on effective joint working; and

(d) **consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in the Framework.

- 4 Further details of the examination process are set out in the Planning Inspectorate’s publication *Procedure Guide for Local Plan Examinations*. See **Annex A** for details of how to access this document.
- 5 I am examining the submitted MLP and the starting point for the examination is that Nottinghamshire County Council has submitted what it considers to be a sound plan. Those seeking changes must demonstrate why the plan is unsound by reference to one or more of the tests of soundness.
- 6 Unresolved issues concerning soundness or legal compliance may be addressed through discussion at the examination hearings and through consideration of the original written representations. It should be emphasised that my role is not to improve the Plans or to make them “more” sound but to determine whether or not they meet the soundness tests as they stand. For example, if an alternative version of a policy is put forward, I cannot recommend it as an improvement if the Plan is already sound.
- 7 I will identify Matters for consideration, Issues on which the soundness of the Plan depends and Questions which the Council will be asked to respond to. These will be added to the Examination website in due course. Responses to these matters, issues and questions should be received by the Programme Officer (PO) by **5pm on 15 April 2020**.
- 8 After the hearings have closed, I will prepare a report for the Council with my conclusions and recommendations. I will have explained the next steps in the examination process including any indication of its likely completion date at the hearings. If I find the Plan to be legally compliant and sound in all respects, my report will recommend its adoption. If I find the Plan non-compliant or unsound in any respect, I can recommend main modifications to make it compliant and sound. My report will deal with the main issues concerning the soundness of the Plan, taking into account the representations received. However, it will not deal with each one individually.
- 9 If main modifications are proposed, adequate consultation will need to take place on them where necessary, so that the rights of interested parties are not prejudiced. Where appropriate, main modifications may also need to be covered by a revised Sustainability Assessment and Habitats Regulations Assessment. The Council may then, if it so wishes, formally adopt the Plan, incorporating the recommended main modifications.

Programme Officer

- 10 Ian Kemp is the Programme Officer (PO). He can be contacted on 07723 009166 or by e-mail at idkemp@icloud.com
- 11 His role is to act as an impartial officer of the examination under my direction. The main tasks of the PO are to liaise with all parties to ensure the smooth running of the examination, to organise the hearings, to ensure that all documents are recorded and distributed as necessary. Details of the website where examination documents related to the Plan are available are given in **Annex A**. Any other procedural questions or other matters that you wish to raise with me prior to the hearings should be directed through the PO.

Appearance at Hearings

- 12 The right to participate in a hearing is limited by legislation¹ to those who have made a representation seeking a change to the plan within the deadline set by the Council for Regulation 19 responses. The right to appear is limited to those policies or matters which were the subject of the original representation and is limited to matters of soundness or legal compliance.
- 13 Alternative development sites have been put forward in representations, which are known as 'omission sites'. I will not be considering the merits or otherwise of these sites as part of the examination as they do not form part of the Plan being examined.
- 14 I shall be testing the soundness of the allocations proposed in the Plan and the process by which they have been selected. If following the hearings, I were to conclude that the Plan is unsound in respect of its allocations, then it would be for the Council to consider whether the Plan should be modified, so as to make it sound. In doing so, the Council would need to undertake further consultation on any main modifications proposed. Amongst other things, this would ensure that interested parties who may not previously have been affected by the Plan, but could be affected by the inclusion of omission sites, have the opportunity to make representations.
- 15 Irrespective of any previous indication you may have provided of your wish to participate at the Hearing Sessions, should you wish to attend any Matter(s) you must inform the Programme Officer of your intention to do so, citing the Matter(s) of interest by **8 April 2020**. Whether views are expressed in writing or orally they will carry the same weight and I shall have equal regard to views expressed by both methods. Attendance at a hearing session will only be useful and helpful to me if you need to participate in a discussion concerning the soundness or

¹ Section 20(6) of the Planning and Compulsory Purchase Act 2004 (as amended)

legal compliance of the Plan. Those who wish to proceed by written means can rely on what they have already submitted.

- 16 In some circumstances it may be appropriate for a participant to reach an agreed position with the Council and to set this out in a Statement of Common Ground. Such a Statement might contain the wording for a main modification. Statements should be received by the PO by **5pm on 15 April 2020.**
- 17 A programme will be provided shortly before the hearings commence. However, to assist at this stage it is broadly anticipated that the programme will follow the following structure:

Matter 1 (28th April AM)
Matter 2 (28th April PM)
Matter 3 (29th April AM)
Matter 4 (29th April PM)
Matter 5 (30th April All Day)

If any person or organisation wishes to appear at the hearing they should inform the PO by **5pm on 8 April 2020.** This is in the interests of fairness to other participants and to assist with arrangements at the hearing itself.

Hearings

- 18 The oral examinations will be based on the matters, issues and questions that I have identified. The hearings will deal with the individual policies and any issues in turn and will consider them by way of a structured discussion which will be led by me. The hearing will not normally involve cross-examination. 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.
- 19 The purpose of the hearings is to concentrate on the matters that I need to hear about. It is not an opportunity simply to repeat a case already set out in written representations. The emphasis will be on testing for soundness. I will make a few brief comments on the matters I want covered, then invite individuals to make their contribution in response to the points they have raised. All participants will have an equal chance to speak.
- 20 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 issues. There will be no formal presentation of evidence, as I will have read all the relevant representations beforehand and 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 with my agreement.

- 21 The hearings will be inquisitorial, rather than adversarial. I will endeavour to progress them in an effective and efficient manner, keeping a tight rein on the discussion and the time taken. In this way the aim is to conduct short, focussed hearings and to produce a short, focussed report.

Closing the examination

- 21 The examination will remain open until my report is submitted to the Council. However, no further representations or evidence will be accepted after the respective hearing has closed, unless I specifically request it. Any late unsolicited material will be returned.

Annex A

The Planning Inspectorate's publication *Examining Local Plans: Procedural Practice* can be found at:

<https://www.gov.uk/guidance/local-plans>

The website where examination documents related to the Minerals & Waste Local Plan are available is at:

<https://www.nottinghamshire.gov.uk/planning-and-environment/minerals-local-plan/examination>

Annex B – Format for statements

- 1 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 as well as **one paper copy** as detailed below.
- 2 I emphasise the need for succinct submissions with the avoidance of unnecessary detail and repetition of the original representation.
- 3 It is the quality of the reasoning that carries weight not the bulk of the documents. There is no need for verbatim quotations from 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!
- 4 None of the statements should be longer than **3,000 words**. For the avoidance of doubt, this limit applies to statements for the overall issue and not the individual questions. Statements should be prepared on A4 paper and **not bound** in any way but just stapled and hole punched. **No photographs** should be submitted. Any plans or diagrams should also be folded to A4 size and listed as Appendices.
- 5 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.
- 6 **Please submit a separate statement for each Matter covered**, if your statement covers multiple Matters please do not combine the content into a single statement, each statement should specifically address questions covered within an individual Matter. This will assist distribution, publication and understanding during the hearing sessions.
- 7 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.
- 8 Statements to be received by the PO by **5pm 15 April 2020**.
- 9 **It is stressed that these deadlines refer to the receipt of both electronic and paper copies of statements. It is not sufficient to send an electronic copy by this deadline to be followed by paper copies at a later time.**

10 All paper copies of statements should be addressed to the Programme Officer at the following address:

Mr Ian Kemp, PO Box 241, Droitwich, Worcestershire, WR9 1DW