

## HEREFORDSHIRE COUNCIL

### Examination of Travellers' Sites Development Plan Document

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**Webpage:** [Travellers' Sites Document examination](#)

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## GUIDANCE NOTE FROM THE INSPECTOR

### Purpose

1. This Note is intended to assist those who have made representations as part of the pre-submission consultation process and those who wish to appear in person. It concerns procedural and other aspects of the examination process.

### Examination Hearing

2. The examination hearing for the Herefordshire Travellers' Sites Development Plan Document will take place on **Tuesday 22 May 2018** at Three Counties Hotel, Belmont Road, Hereford HR2 7BP [Three Counties Hotel, Belmont, Hereford](#) starting at 10.00am. Wednesday 23 May is a reserve day. The hearing will form part of my examination of the plan. It will proceed on the basis of an agenda that will be prepared shortly in advance and which will reflect the issues and questions I have identified.

### Inspector's role and examination process

3. My task is to consider the soundness and legal compliance of the plan on the basis of relevant legislation and the National Planning Policy Framework (NPPF). Considering soundness involves determining whether the plan 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; and
  - (d) **consistent with national policy** – able to achieve sustainable development in accordance with the NPPF's policies.
4. The NPPF also sets out principles for local plans in paragraph 157 and details about what they should contain in paragraph 154. Additional guidance is also found in the Planning Practice Guidance on *Local Plans*.
5. Further details of the overall examination process are set out in the Planning Inspectorate's publication *Procedural Practice in the Examination of Local Plans*. See **Annex A** for details of how to access this document.

6. The starting point for the examination is that the Council has submitted what it considers to be a sound plan. The document to be examined is the pre-submission publication of November 2017 (A1). Those seeking changes must demonstrate why it is unsound by reference to one or more of the criteria of soundness. The Council has also produced a schedule of suggested minor changes (A17) and these will be considered alongside the plan.
7. Separately I have identified five main issues for the examination and have posed a number of questions for the Council to reply to. This response should be available after Friday 4 May 2018.
8. Issues concerning soundness or legal compliance will be addressed by round-table discussion at the hearing 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 criteria as it stands.
9. After the hearing has closed, I will prepare a report for the Council with my conclusions and recommendations. This 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. If possible I will give an indication towards the end of the hearing of when the report might be received together with any other steps to be taken by the Council.
10. If I find the submitted plan to be legally compliant and sound in all respects, my report will recommend its adoption. If I find it non-compliant or unsound in any respect, I can recommend main modifications to make it compliant and sound if requested by the Council.
11. If main modifications are proposed by the Council, adequate consultation will need to take place on them so that the rights of interested parties are not prejudiced. They may also need to be covered by a revised Sustainability Appraisal. The Council may then, if it wishes, formally adopt the Plan, incorporating the recommended main modifications.

### **Programme Officer**

12. Tracy Pearson is the Programme Officer (PO). She can be contacted on 07792 880908 or by email at: Programme.Officer@herefordshire.gov.uk.
13. Although Tracy is employed by the Council in another capacity she is acting as an impartial officer of the examination under my direction. She has had no involvement in the preparation of the plan and will not be a party to any findings or recommendations that I make.
14. The main tasks of the PO are to liaise with everyone to ensure the smooth running of the examination, to organise the hearing and to ensure that all documents are recorded and distributed as required. Details of the webpage where examination documents are available are in the heading and at **Annex A** of this note. The PO can also provide electronic or paper

copies on request if necessary.

15. Hard copies of relevant documents will be available at the hearing but it would be advisable to check with the PO if you intend to refer to a specific document on the day. As additional documents are produced for the examination they will be added to the webpage.
16. In general any procedural questions or other matters that you wish to raise prior to the hearing should be directed through the PO.

### **Progressing representations - general**

17. The Council has prepared a summary of the main points raised during pre-submission consultation (A16) which also includes its comments. In addition, all the representations have been compiled and are presented in both respondent and policy order (A8 & A9). These will all be taken into account. Representations can also be progressed by appearing at the hearing although written and oral submissions carry equal weight.

### **Attending the hearing**

18. Under section 20(6) of the 2004 Act only those who have made representations seeking to change the plan in order to make it sound and legally-compliant have a right to appear before, and be heard by, the Inspector. This entitlement also extends only to matters covered in the original representation. So although anyone can attend, the ability to speak is not available to all but is limited to either those with a legal right or those specifically invited. In this way the examination process is different to other planning procedures.
19. Participation is only likely to be useful if you have specific points to contribute having regard to the issues and questions identified and which will help me in determining the soundness of the plan. In this regard some of the points raised, such as those relating to the future management of the proposed site allocations, do not have a bearing on soundness so that further discussion about this is unlikely to assist me.
20. Given the nature of the issues involved further statements from those representors wishing to attend the hearing are not required. However, evidence on any new matter which may have arisen since the original representations were submitted can be sent to me via the PO. This might be, for example, where a new document has been produced by others or where evidence has emerged that has a direct bearing on the soundness of the plan. Any such material should, however, be provided by **Friday 4 May 2018** to allow sufficient preparation time for all parties.
21. Representors should also bear in mind that the schedule of suggested minor changes produced by the Council may have satisfactorily addressed the comments or objections originally made. In addition the Council has responded to the representations made in document A16 which may assist representors in understanding its position.

22. Some representors have previously indicated a wish to attend the hearing. If this is still the case in the light of this note then please advise the PO accordingly by **Friday 11 May 2018** at the latest. This is in the interests of fairness to other participants and to assist with arrangements at the hearing. **Please note that if you do not contact the PO by the above date then it will be assumed that you do not wish to appear and be heard and you will not be listed as a participant.**

### Hearing

23. The purpose of the hearing is to concentrate on the matters that I need to hear about based on the issues and questions identified. These will be dealt with by way of a structured discussion that I will lead with the emphasis on testing for soundness. I am likely to have some initial questions or points of my own and will then invite the Council and individuals to make their contributions to matters I wish to be covered. 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 their respective teams.
24. The hearing will be inquisitorial rather than adversarial and I shall endeavour to progress it in an effective and efficient manner. This is not an opportunity simply to repeat a case already set out in written representations. There will be no formal presentation of evidence, as I will have read all the relevant representations beforehand, and expect all other participants to have done so as well.

### Site visits

25. By the start of the hearing I expect to have made unaccompanied visits to the proposed allocation sites in Herefordshire. If any more visits are required I will conduct these shortly afterwards.

### Closing the examination

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

*David Smith*

INSPECTOR

20 March 2018

## **ANNEX A**

### **Sources of relevant documents and advice**

#### **A. The Council's webpage**

All documents and information for the Plan examination is available on the Council's webpage at:

[Travellers' Sites Document examination](#)

If you do not have access to the internet, documents and other information can be obtained from the Programme Officer whose details appear in the heading of this note.

#### **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 Planning) (England) Regulations 2012*

*The Town and Country Planning (Local Planning) (England) (Amendment)*

*Regulations 2017*

#### **C. Guidance from The Planning Inspectorate**

See: [Local Plans - GOV.UK](#) which provides a link to:

*Procedural Practice in the Examination of Local Plans* (June 2016 4th edition v.1)