

East Lindsey Core Strategy and Settlement Proposals Development Plan Document 2016-2031

EXAMINATION GUIDANCE NOTE FROM THE INSPECTORS STAGE 1 AND 2 HEARINGS

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Purpose of the Guidance Note

1. The East Lindsey Core Strategy and the Settlement Proposals Development Plan Document (DPD) were both submitted for examination on 18 April 2017.
2. This note provides guidance to participants on the procedural and administrative arrangements for the examination.

The Inspectors

3. These plans are being examined jointly by two Inspectors, Jeremy Youle and Louise Phillips. We have both been appointed by the Secretary of State for Communities and Local Government. We will examine the soundness of the plans and whether they meet the requirements of the Planning and Compulsory Purchase Act and associated regulations (legal compliance). We will aim to work with the Council, and everyone else involved in the examination, in a positive and pragmatic manner.

The Programme Officer

4. The Programme Officer (PO) for the Examination is Gemma Clark. Gemma is working under our direction and is independent of the Council. Postal, e-mail and telephone contact details are provided above.
5. The main tasks of the PO are to act as a channel of communication between the Inspector and all participants, to liaise with people to ensure the smooth running of the examination, to ensure that all documents received are recorded and distributed and to run the Examination Library.
6. Copies of examination documents can be found on the examination web site (link provided above). Any participant who does not have access to the internet should contact the PO so that alternative arrangements can be put in place.
7. Any procedural questions or other matters that you wish to raise with the Inspectors prior to the hearing sessions should be made through the PO.

Dates and venue for the hearing sessions

8. The examination is programmed to take place in two stages.

Stage 1 - Core Strategy

Week 1: Wednesday 12 July 2017 – Friday 14 July 2017 (3 days)

Week 2: Tuesday 8 August 2017 – Thursday 10 August 2017 (3 days)

Week 3: Tuesday 15 August 2017 – Wednesday 16 August 2017 (2 days)

Stage 2 - Settlement Proposals Development Plan Document

These hearings are currently expected to take place during the week of 25 September 2017 and, if necessary, the week of 9 October 2017.

The venue for all sessions will be **East Lindsey District Council, Tedder Hall, Manby Park, Manby, Louth, Lincs, LN11 8UP** (room to be confirmed). The sessions will start at 10am and finish by 5.30pm unless otherwise agreed with participants, with appropriate breaks during the day.

The examination

9. The *National Planning Policy Framework* (DCLG, March 2012) sets out the criteria for determining soundness; namely that the plan is positively prepared, justified, effective and consistent with national policy.¹
10. There are three possible outcomes to the examination:
 - the submitted plan is sound and legally compliant
 - the submitted plan is not sound and/or legally compliant but could be made so by changes (known as *main modifications*), if necessary following additional work
 - the submitted plan is not sound and could not be made sound by changes. If so, we would be likely to recommend that the Council withdraws the plan. The same would apply if there is a problem in terms of legal compliance which cannot be remedied (for example, a failure to comply with the Duty to Cooperate).
11. Any final report we produce will deal with broad issues, rather than specifically with each individual representation. Before we can recommend any main modifications, the Council must formally request that we do so.

Changes to the plan

10. The starting point is that the Council should have submitted a local plan which they consider is ready for examination.² At this stage there are only two means by which changes can be made to the submitted plan:
 - (1) *main modifications* recommended by the Inspectors
 - (2) *additional modifications* made by the Council on adoption.
11. However, we can only recommend *main modifications* if they are necessary to resolve problems that would otherwise make the submitted Plan unsound or not

¹ More information on the tests of soundness can be found in para 183 of the NPPF

² Section 20(2) of the Planning and Compulsory Purchase Act 2004

legally compliant.³ *Main modifications* are changes which, either alone or in combination with others, would materially alter the plan or its policies. Any potential *main modifications* must be subject to consultation and, in some cases, further sustainability appraisal might also be needed

12. '*Additional modifications*' are those changes which do not materially affect the policies in the Plan.⁴ They are made by the Council on adoption and are also sometimes referred to as 'minor modifications.'⁵ The Council is accountable for any such changes and they do not fall within the scope of the examination.⁶

Modifications proposed by the Council

13. The Council has proposed a number of post-submission changes ('Schedule of Proposed Additional Minor Modifications' to both the Core Strategy and the Settlement Proposals DPD [Documents CD108 and CD110]. They are also set out in the form of 'tracked changes' to the submitted plans [CD107 and CD109]).
14. These changes may be discussed, where they are appropriate, at the relevant hearing sessions to determine whether any should be treated as main modifications. It is possible that additional potential main modifications may also be proposed and discussed during the hearing sessions.

Progressing your representations on the plan and participation in the hearing sessions

15. The *Inspectors' Matters, Issues and Questions* will form the basis of the discussion at the hearing sessions. If you have any comments on the Stage 1 MIQs for the Core Strategy (for example, because you feel there may be a significant omission), you should contact the Programme Officer by the **5pm on Friday 2 June**.
16. **Only those who have made representations seeking to change the plan have a right to appear before, and be heard by, the Inspectors.**⁷ However, it is important to stress that written representations carry the same weight as those made orally at a hearing session. Consequently, participation at a hearing session is only necessary if, in the light of the *Inspectors' Matters, Issues and Questions*, you have specific points you wish to contribute. In reaching our conclusions on the plans, we will take into account the written representations made on the publication version of the plans.⁸
17. A provisional hearing *Programme for Stage 1 - Core Strategy* has been published with this Guidance Note.
18. If you have a right to be heard and you wish to exercise that right, you should contact the Programme Officer **by 5pm on Thursday 15 June** indicating the appropriate Matter and the session you wish to attend (see the draft Programme available separately). You need to do this regardless of what you may have

³ Under section 20(7B) & (7C) of the Planning and Compulsory Purchase Act 2004

⁴ S23(3)(b) of the PCPA 2004 "... if the additional modifications (taken together) do not materially affect the policies ..."

⁵ For example in *Examining Local Plans Procedural Practice*

⁶ 3.4, 5.26 & 6.2 of *Examining Local Plans Procedural Practice*

⁷ S20(6) of the PCPA 2004

⁸ Consultation between 30 November 2016 and 25 January 2017

indicated on the representation form. **Please note that if you do not contact the Programme Officer by that date it will be assumed that you do not wish to appear and be heard and you will not be listed as a participant.** You should only request to be heard at a hearing session if you have made a relevant representation seeking a change to the plan. The right to be heard is limited to the policies or matters which were the subject of the original representation. However, the hearing sessions are open for anyone to observe.

19. It is not usual for those supporting the Local Plan to be heard at a hearing session. This is because S20 of the Act states that the Council must not submit the plan for examination unless they think it is ready for independent examination and para 182 of the National Planning Policy Framework states that the authority should submit a plan which it considers is sound. It is therefore for those seeking changes to the Plan to demonstrate why they consider the Plan is unsound and what changes may be necessary to make it sound.
20. The draft Programme and MIQs for Stage 2 for the Settlement proposals DPD will be published separately, **around Friday 30 June**. Deadlines for confirming attendance and for submitting hearing statements for Stage 2 will be confirmed at that date.
21. **Please note: it will be for individual participants to check the progress and timing of the hearing sessions, either on the web site or with the PO, and to ensure that they are present at the right time. It is possible that the Programme and the Matters, Issues and Questions will be revised before the hearings.**

Consideration of Alternative Sites not in the Submission Local Plan

22. Representors should be aware that it is not part the Inspectors role to examine the soundness of sites that are not allocated for development in the submitted plans. This includes alternative sites suggested by representors (sometimes referred to as 'omission sites'). This particularly applies to the Settlement Proposals DPD. Consequently, subject to the legal right to be heard (see above), such sites will not normally be discussed in detail at the Hearing sessions. Instead the examination will focus on the soundness of the plan including the sites proposed for development and other policies.
23. Should it be the case that additional sites might need to be included in the plan (because, for example, an allocated site is found to be unsound), the Inspectors will look to the Council to decide which alternative or additional sites should be brought forward for examination. These would need to be subject to consultation and possibly Sustainability Appraisal. Further hearing sessions might then be necessary.

Hearing statements and written material

24. The Council should produce hearing statements which respond to all of the matters, issues and questions.
25. Those who made representations seeking changes to the plan may also submit hearing statements on the relevant *Matters, issues and questions*. However, the preparation of a statement is not a requirement.

26. Hearing statements should be a maximum of 3000 words for each Matter. Within this limit, they should be kept as short as possible. Appendices should only be included where directly relevant and necessary and should not be used as a means of increasing the word count. If the quantity or number of appendices is large, this may be questioned by the Programme Officer and/or the Inspectors. Only directly relevant extracts from documents should be provided as appendices and not whole documents unless essential. Statements should be stapled rather than bound. In addition, they should:
- only answer the specific matters, issues and questions which are of direct relevance to the original representation seeking a change to the plan
 - not introduce new evidence or arguments
 - clearly identify the number(s) of the specific *Matters, Issues and Questions* being answered.
 - be concise and focused
29. The Council's statements should be focused and succinct. However, because the Council have to answer every question on all matters, it may be necessary to go over the 3000 word limit.
30. Where several people or organisations wish to speak on the same point, representors should consider producing a single joint statement. Please contact the Programme Officer to discuss.
31. Three paper copies and an electronic version of each hearing statement for Stage 1 (Core Strategy) should be submitted to the Programme Officer by **5pm on Friday 23 June**. Late statements will not be accepted, unless there are exceptional circumstances. Any appendices should be collated into a single PDF file and not provided as multiple PDF files.
32. Hearing statements will be posted on the Examination webpage, 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 webpage may request copies from the PO.
33. Apart from these hearing statements no other written evidence will be accepted, unless we specifically request it. The hearing sessions should not be used to introduce new evidence or arguments. Examining Local Plans Procedural Practice (para 3.15) states:
- Additional written material should not be put forward if not requested by the Inspector. For example, topic papers should form part of the evidence base submitted with the Plan. Similarly, representors should ensure that all their evidence is provided with their original representation and should not expect an opportunity to submit further material during the examination.*
34. The deadline for the submission of statements in relation to Stage 2 (Settlement Proposals DPD) is likely to be 5pm on **Friday 8 September 2017**.

The hearing sessions

35. The hearings will generally take the form of a structured discussion which one of the Inspectors will lead. This will be focused on the Inspectors' MIQs. The

hearings will not involve the formal presentation of cases by participants or cross-examination and participants should not seek to introduce new evidence or arguments. There will be a lot to cover and all contributions should be focused. For some sessions the published list of Matters, Issues and Questions will form the agenda. Alternatively, for some sessions, the Inspectors may produce a specific hearing agenda shortly in advance of the session. These will be published on the website. It is the responsibility of participants to keep up to date by reference to the examination website. Those who made representations can choose to be professionally represented on the day.

36. Please let the Programme Officer know as soon as possible if you have any specific needs in relation to attendance and participation at the hearing sessions.

The Examination Library and access to documents

35. The Council's evidence base relating to the preparation of the Local plan can be found at:
<http://www.e-lindsey.gov.uk/article/2109/The-Local-Plan-Evidence>

36. Information about the Examination, including all Examination documents can be found at:
<http://www.e-lindsey.gov.uk/article/5462/Local-Plan-Examination>

37. If you have difficulties accessing these sites or documents please contact the Programme Officer. It is not necessary to attach extracts of these documents to hearing statements as they are already Examination documents.

Site visits and close of the examination

38. Insofar as we consider it necessary to our assessment of the plans, we shall visit sites and areas, during, or after the hearings. We will carry out any visits on an unaccompanied basis, unless we find that we need to go onto private land.
39. The examination will remain open until our final report has been submitted to the Council. However, we will not accept any further representations or evidence after the hearing sessions have ended unless we specifically request it. Late or unsolicited material may be returned.

Summary of Examination programme

Stage 1

Friday 26 May – Stage 1 and 2 hearings advertised, draft Matters, Issues & Questions and draft Programme for Stage 1 (Core Strategy) published

5pm Friday 2 June - Deadline for any comments on the draft Matters, Issues & Questions for Stage 1 (Core Strategy)

5pm Thursday 15 June - Deadline to confirm with the PO whether you wish to exercise the right to be heard at Stage 1 (Core Strategy) if you made a relevant representation seeking a change to the Plan, indicating the appropriate Matter and the session

5pm on Friday 23 June - Deadline for submission of hearing statements for

Stage 1 (Core Strategy)

Wednesday 12 July - Stage 1 (Core Strategy) hearing sessions start

Stage 2

Around Friday 30 June – publication of draft Programme and MIQs for Stage 2 for the Settlement proposals DPD. Deadlines for confirming attendance and for submitting hearing statements for Stage 2 will be confirmed at the same time.

Week commencing Monday 26 September – Stage 2 hearings (Settlement Proposals DPD) likely to start

Friday 8 September 2017 – likely deadline for submission of Stage 2 hearing statements

Further information

40. Further information about the preparation and examination of Local Plans is available as follows:

- *Planning Inspectorate's Examining Local Plans Documents: Procedural Practice – June 2016 (4th Edition v.1)*
- *National Planning Policy Framework*
<https://www.gov.uk/guidance/local-plans>
- *National Planning Policy Framework*
- *Planning Practice Guidance*, including on *Local Plans* can be found at:
<http://planningguidance.planningportal.gov.uk/>

The following legislative documents can be searched for and found at:
<http://www.legislation.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*

Jeremy Youle and Louise Phillips

INSPECTORS

May 2017

