

MAIDSTONE LOCAL PLAN REVIEW
EXAMINATION GUIDANCE NOTES FOR PARTICIPANTS
6 JULY 2022
Version 1.0

Introduction

1. These notes have been prepared to assist those individuals and organisations who are involved in the Examination of the Maidstone Local Plan Review ('the Plan'). The Plan was formally submitted to the Secretary of State on 31 March 2022.

Inspector and Programme Officer

2. The Secretary of State has appointed the Inspector, David Spencer, under Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'), to hold an Examination into the soundness and legal compliance of the Plan.
3. Louise St John Howe is the Programme Officer (PO). She is acting as an impartial officer for the Examination under the Inspector's direction. The main tasks of the PO are to liaise with all parties to ensure the smooth running of the Examination, to organise the hearing programme, to ensure that all documents received both before and during the hearings are recorded and distributed, to maintain the Examination Library (principally in an electronic format) and to assist the Inspector with administrative and procedural matters.
4. Any matters which the Council or participants wish to raise with the Inspector should be addressed to the PO. Anyone who requires assistance or particular facilities for disabled persons should contact the PO beforehand to enable appropriate arrangements to be made. The PO contact details are:

Louise St John Howe
PO Services, PO Box 10965, Sudbury, Suffolk CO10 3BF
Tel: 07789 486419
Email: louise@poservices.co.uk

Purpose and nature of the Examination

4. The Inspector's task is to consider whether the Plan meets the requirements of section 20(5) (a-c) of the 2004 Act and associated regulations and whether it complies with the requirements of the National Planning Policy Framework ('the Framework'). These requirements comprise whether the **legal requirements** have been met, whether the Council has complied with the **duty to co-operate**; and whether the plan is **sound**.

5. The Framework sets out that a sound plan is **positively prepared, justified, effective** and **consistent with national policy**. The Council should rely on evidence collected while preparing the Plan to demonstrate that it meets the requirements of the Act. Those seeking main modifications (material changes) to the Plan must demonstrate why the document does not meet the requirements and how suggested changes could address any soundness failure.
6. The key elements in the Examination process are:
 - The starting point for the Examination is the assumption that the Council has submitted what it considers to be a sound plan;
 - The Inspector must consider those duly made representations on the submitted plan. For the purposes of this Plan the Inspector is considering those representations made between 29 October and 12 December 2021.
 - The Inspector is not required to consider each and every point made in every objection or to report on them, but to use the representations as the starting point in considering the Examination requirements;
 - It is not the Inspector's role to seek to improve the Plan or to make it 'more sound' but to seek to address unresolved issues through round table discussion or consideration of the original written representations.
7. The hearing sessions are intended to be an inquisitorial rather than adversarial process under the Inspector's direction. The hearings will address particular topics selected for discussion by the Inspector from the soundness requirements and the representations made in Autumn/early Winter 2021.
8. Following the close of the hearings the Inspector will prepare a Report for the Council with his conclusions on legal compliance and soundness. Under section 20(7C) of the 2004 Act the Council can request to the Inspectors to recommend any main modifications to the Plan that are necessary to make it sound and legally compliant. The Council can make minor changes to the plan at any time up and until its adoption. These minor changes should not materially affect the substance of the plan, its overall soundness or the submitted sustainability appraisal. They need not form part of the Examination.
9. The Inspector will work with the Council to ensure that any necessary main modifications are supported by evidence and are subject to the same process of sustainability appraisal, Habitats Regulations assessment (where necessary) and opportunity to make representations as the submitted plan. Any main modifications should include the precise wording of the text and be set out in an Examination document.
10. Further guidance on the Examination process can be found in:
 - The Planning and Compulsory Purchase Act (2004) and associated Local Planning Regulations (2012)
 - The Planning Inspectorate's Procedure Guide for Local Plan Examinations – 7th Edition (February 2022)

How is the examination going to proceed?

11. The Maidstone Local Plan Review examination hearings will take place over two principal stages.
12. Stage 1 will consider matters of legal compliance, the amounts of development being planned for and the overarching strategy, including the two garden community proposals at Heathlands and Lidsing. It will also consider the Leeds Langley Relief Road policy and take an overview on how the plan will ensure there will be sufficient land to deliver homes, particularly in the short term.
13. Stage 2 will consider site allocations in Maidstone (including the approach to the town centre opportunities), the rural service centres and larger villages. It will also consider those strategic policies not dealt with at Stage 1 and the various development management policies, as well as matters such as plan-wide viability and monitoring.
14. The purpose of the staged approach is to enable the Inspector to assess the appropriateness of the strategy, how it was derived (including comparison to alternative options), its deliverability and its impact on the environment and local communities, including the effectiveness of any mitigation. These are fundamental matters that need to be examined up front before moving on to consider individual sites and policies.
15. The Stage 1 hearings will take place in September 2022. Depending on the outcome of the hearings, the earliest the Stage 2 hearings would take place would be later in 2022 and very possibly into early 2023.

Matters for Stage 1 – Sept 2022	Matters for a Stage 2 – Late 2022/early 2023 (timing subject to change)
Legal Compliance (Duty to Cooperate, consultation, Equalities, Habitat Regulations, Strategic Environmental Assessment and Climate Change)	Thematic Strategic Policies LPRSP10-15
The spatial strategy (Policy LPRSS1), including settlement hierarchy	Policies LPRSP1-3 – Maidstone and detailed site allocations for Maidstone
The housing requirement and commercial development requirement (Policy LPRSS1)	Detailed Site Allocation Policies <ul style="list-style-type: none"> - LPRSP6 and site allocations at Coxheath; Harrietsham; Headcorn; Lenham; Marden and Staplehurst - LPRSP7 and site allocations at Eythorne Street; Sutton Valence and Yalding
Heathlands (Policy LPRSP4(a))	Policies LPRSP8 and 9 for smaller villages and countryside
Lidsing (Policy LPRSP4(b))	Development Management Policies
Leeds-Langley Corridor (Policy LPRSP5(a))	Plan-wide viability

Invicta Barracks (Policy LPRSP5(b))	Further assessment of housing delivery, trajectory and ensuring five-year deliverable supply on plan adoption
Overview of housing trajectory and site selection process	Monitoring

16. The Inspector's Matters, Issues and Questions published on 6 July relate only to the Stage 1 hearings. A further set of questions for Stage 2 and a deadline for related statements will be issued separately in due course. The Stage 2 questions will be notified to everyone who made representations on the published plan at the appropriate time.

Representations on the Plan and the right to be heard

17. A total of 2,253 duly made representations were accepted on the published Plan¹. Those who wish to proceed by written means can rely on the representations that they have already submitted. The right to participate in a hearing extends only to those who propose changes to the Plan. There is no need for those supporting the Plan or merely making comments to take part in the hearings although they may observe the hearings. However, the Inspector may invite persons to appear or be heard at the hearings where they think they are needed to enable the soundness of the plan to be determined.

18. The Inspector encourages all those who anticipate that they may wish to be heard at the hearing sessions to consider the following:

- (i) Whether your views are expressed in writing or wish to make them verbally during the hearing sessions **both methods carry the same weight.** Regulation 23 of the 2012 Local Plan Regulations requires that an Inspector **must** consider all duly made representations.
- (ii) Find out whether others are making similar points and whether they are speaking at the hearings (see Document ED3). The Inspector will not want to hear multiple people making exactly the same point or simply saying that they agree with what someone else has said.
- (iii) You can only be heard in relation to your soundness objections to those policies or parts of the Plan as per your representations. Additional statements in response to the Inspector's Questions and participation at the hearings are not an opportunity to widen the scope of your soundness objections.

A significant number of representations have been made in respect of the two garden community proposals at Heathlands and Lidsing. The examination will want to get to the nub of soundness concerns with these proposals and any potential changes to the Plan. The Inspector, having read the written representations, is aware of the scale of objection and the issues raised. There are various campaign groups, parish councils and elected representatives who

¹ Consultation Statement LPRSUB004, paragraph 4.4

have indicated that they will be attending the hearings, raising similar concerns to those identified by individuals. The Inspector would encourage those objecting to come together and consolidate around identified spokespeople for either Heathlands or Lidsing to enable focused and well-organized contributions to the discussions. If you wish further advice on this point, please contact the Programme Officer.

19. A draft hearings programme document for Stage 1 has been produced and will be updated once the Programme Officer has received confirmation of those who still wish to be heard. The programme is based on the Stage 1 hearing sessions opening on 6 September 2022.
20. **If you wish to be heard at the Stage 1 hearings you must confirm this in e-mail/writing with the Programme Officer by no later than 5.00 pm on Wednesday 27 July 2022,** even if you indicated in your original Regulation 19 representation that you wished to participate. If the Programme does not receive confirmation, it will be assumed that you do not wish to participate and will rely on your written submissions.

How the hearing sessions will work

21. The hearing sessions will take place in person at Maidstone Town Hall, High Street, Maidstone, Kent ME14 1TF.

<https://www.visitmaidstone.com/things-to-do/maidstone-town-hall-p14021>
22. The hearing sessions for the Examination will normally commence at 10.00 hours for morning sessions and 14.00 hours for afternoon sessions with a break for lunch at about 13.00 hours. In some instances, earlier starts will be programmed (please check the hearings programme). The daily hearings should finish by around 17:00 hours. Short breaks will be taken mid-morning and mid-afternoon.
23. A more detailed programme for the hearings, once the number of participants is confirmed, will be published in advance of the hearings and participants will be notified. When the detailed programme is published, if you have any queries on it, please raise them with the PO. The detailed Programme will be available on the web site.
24. Every effort will be made to keep to the Programme, but late changes may be unavoidable. The PO will inform participants of any late changes to the timetable but it will be the responsibility of individual participants to keep themselves up to date and to ensure that they are present at the correct time.
25. The hearings will focus primarily on issues of soundness. The hearing format will provide an informal setting for dealing with the issues by way of a discussion led by the Inspector. Those attending may bring with them professional experts but there will be no formal presentation of evidence, cross-examination or formal submissions. There is no need for participants to have legal representation but where this occurs such advisors will be treated as part of the participant's team, as appropriate.

26. Given the level of interest in the plan and numbers likely to participate, seating will be limited and where participants comprise of a team they should be prepared to 'hot-seat'. There will be no need for participants to provide lengthy introductions on who they are, their background or who they represent.
27. For anyone unable to attend/observe the hearing sessions in person at the Town Hall, the Council is intending to record the sessions.
28. The discussion for each Matter will focus on the Inspector's issues and questions. The Inspector will begin by making his comments on the matters to be covered, before inviting participants to make their contribution to the debate in response to the points raised. All participants will have an equal chance to contribute. The hearings will be conducted on the basis that everyone taking part has read the relevant documents, although participants will be able to refer to and elaborate upon relevant points, as necessary. The Inspector will endeavour to progress the hearings in an effective and efficient manner, keeping a tight hand on the discussions and time taken. As part of that process, the discussion will need to focus on those areas necessary to come to informed conclusions on the issues. **It is also important that participants should not seek to introduce new material at a hearing session.**
29. At the hearings, the Inspector will aim to work collaboratively with the Council and all participants in a proactive, pragmatic and problem-solving manner. Those taking part should aim to be co-operative and constructive and be willing to discuss potential changes that would overcome any soundness problems.

Inspector's Matters, Issues and Questions

30. The Inspector has issued his "Matters, Issues and Questions" (MIQs) that Stage 1 of the Examination will focus on. These are based on his assessment in terms of soundness and legal compliance having regard to all of the representations made and on-going clarifications with the Council on key matters. The MIQs will form the basis of the discussions at the hearing sessions and the subsequent report. The Inspector will issue agendas for each hearing session approximately a week in advance and these will be published on the website and circulated to relevant parties by the Programme Officer.

Documents and Examination Library

31. The documents provided by the Council when the plan was submitted at the end of March 2022 are available on the Examination website. Further documents may be added as the Examination progresses – for example, in response to a request from the Inspector. It is important that participants at the hearings are familiar with the relevant submitted documents, including proposed modifications (document LPRSUB011), additional evidence documents, topic papers and any statements of common ground prepared by the Council.

32. In addition to the examination documents, the website contains copies of the representations on the submitted Plan and any further statements. The PO will assist anyone wishing to see any documents.

Statements responding to the Main Issues and Questions

33. The representations made on the Maidstone Local Plan Review should have included all the points and evidence to substantiate respondents' cases. From now on, any further written submissions should be limited to responding to the Inspector's Main Issues and Questions for the examination.

34. Any written statements in response to the Inspector's questions should be submitted **no later than 5pm on Thursday 18 August 2022.**

35. When submitting further statements, you should answer only those questions which follow from the representations you have made on the Pre-Submission plan. They should not stray beyond those issues relevant to your original representation. Respondents should focus on:

- Which part of the Plan is unsound.
- Which of the soundness criteria it fails to meet.
- Why it fails (point to the key parts of your original representations).
- How the Plan can be made sound.
- The **precise modifications/wording that you are seeking.**

36. From the Council the Inspector will need a response to each of the questions, cross referring to the evidence base as appropriate.

37. Submissions should set out the fundamental elements of cases, since the hearings are not the place for new points or evidence to be presented for the first time. There is no need for verbatim quotations from the Plan or other sources of policy guidance. Supporting material in the form of appendices to statements should be limited to those which are essential and should not contain extracts from any publication that is already before the Examination, such as the documents in the Examination Library. Anyone submitting appendices with their statements should indicate in their statement which parts are particularly pertinent and on which they are especially relying by reference to page or paragraph numbers.

38. Participants **should not include links to web pages in their statements.** The content of websites can change, and it is important that all parties are clear about what is being referred to.

39. **Statements of Common Ground** are a useful way of narrowing the issues in dispute, thereby assisting the hearings to concentrate on the key issues that genuinely need discussion. Statements of Common Ground should be submitted by at least the Friday before the relevant hearing session to enable uploading on the website and pre-discussion consideration by the Inspector.

40. Those submitting further **written statements** (and appendices) should send, where possible, emailed electronic versions to the PO (in Word or PDF format).

**Individual statements are required for each matter being addressed.
Please do not address multiple matters within the same statement.**

41. Statements should be no longer than **3,000 words per Matter**. The Council may exceed the limit. Any submissions which are excessively long or contain irrelevant or repetitious material may be returned by the PO for editing.
42. All participants should adhere to the timetable for submitting further statements. Normally, the deadline for statements is 2-3 weeks (as per the Inspectorate's Local Plan Procedure Guide). In the case of this plan examination, given the likely disruption to normal working patterns due to the school holiday period, a total of 6 weeks is being allowed for statements to be submitted. **Late submissions and additional material are unlikely to be accepted**, since this can cause disruption and result in unfairness, and can cause an adjournment of the hearing. If material is not received by the deadlines stated, the PO will advise the Inspector that you are relying only on your original representations.

Proposed Main Modifications to the Plan

43. Under section 20(7C) of the 2004 Act the Council should request to the Inspector to recommend any main modifications to the plan that are necessary to make it sound and legally compliant. Participants should note that there is no provision for main modifications to be requested in relation to the legal duty to co-operate: the plan as submitted either meets or fails that test. Minor changes (additional modifications) to the plan (those changes that would not materially affect the application of policy) are a matter for the Council and not subject to examination.

Site Visits

44. The Inspector will make unaccompanied site visits to the Plan area during the course of the Examination. If it is considered essential that the Inspector would need to visit a particular site on an accompanied basis, then this should be raised with the PO as soon as possible.

Close of the Examination

45. The Examination will remain open until the Inspector's report is submitted to the Council. The Inspector will not accept any further representations or evidence after the hearing sessions have finished unless he has specifically request further information from the Council and/or others. Any late or unsolicited material is likely to be returned.

David Spencer
Inspector.

7 July 2022