

PUBLIC EXAMINATION OF THE THREE RIVERS DEVELOPMENT MANAGEMENT POLICIES LOCAL DEVELOPMENT DOCUMENT

INFORMATION NOTES

INSPECTOR: Robin Brooks BA(Hons) MRTPI

Introduction

1. I have been appointed to conduct the independent Examination of the soundness of the Three Rivers Development Management Policies Local Development Document (LDD). Ian Kemp has been appointed as Programme Officer to assist me in the Examination.
2. This note sets out to explain the purpose of the Examination and my role and, in particular, arrangements for the public Hearings into the soundness of the LDD. If it does not answer a question you may have, please contact Ian Kemp (Tel: 01527 837920 or (mobile) 07723 009166; email idkemp@sky.com; 49 All Saints Place, Bromsgrove, Worcestershire B61 0AX).

The Purpose and Scope of the Examination and the Role of the Inspector

3. Under the Planning and Compulsory Purchase Act 2004 (as amended) local planning authorities must submit their LDDs for independent examination to determine whether they comply with the relevant legislation, whether the Duty to Cooperate with other authorities and agencies¹ has been properly discharged and whether they are sound². The Town and Country Planning (Local Planning) (England) Regulations 2012 set out detailed legal requirements for preparation and examination of LDDs. The scope and purpose of the Duty to Cooperate are set out in the National Planning Policy Framework (NPPF); briefly, local planning authorities are to cooperate with adjoining authorities and other agencies on strategic matters that cross administrative boundaries. The NPPF advises on how LDDs should be prepared and what they should (and should not) contain; it also explains what is meant by *sound*³. To be sound an LDD must be positively prepared, justified, effective and consistent with national policy. These are the four essential tests of soundness. *Positively prepared* means being based on a strategy that seeks to meet development and infrastructure requirements. *Justified* means the most appropriate strategy, considered against reasonable alternatives. *Effective* means deliverable and based on effective joint working on strategic matters; and a plan that is *consistent with national policy* will deliver sustainable development in line with the NPPF.

¹ S33A of the 2004 Act, as introduced by the Localism Act 2011

² Appendix A includes links to this and other material referred to.

³ Para. 182. The Framework uses the term *Local Plans*; the terms are effectively interchangeable so far as this advice is concerned.

4. The Examination effectively started with the submission of the LDD. The Hearings are intended to help me explore issues of soundness with both representatives of the Council and with those who have made representations. At the end of the Hearings I will write a report to the Council with my conclusions, and with any changes I consider necessary to make the plan sound. My recommendations on such changes are binding on the Council though they are not bound to adopt the LDD if they choose not to do so. The Examination process ends with the submission of my report to the Council.
5. The starting point for the Examination is that it is the Council's plan and that they consider it sound. My task is to determine whether or not this is the case. I will only recommend changes that are essential to ensure soundness. I have to ask myself whether the plan would be unsound if a change was not made; and if the answer is "no" then I will not make a recommendation. I will not make recommendations relating to individual representations that have been made on the LDD. Such representations can be of great help in determining whether or not the plan is sound but the purpose of the examination process is not to assess "objections".
6. Public consultation and sustainability appraisal are fundamental parts of the development plan system and should be undertaken from early in the plan preparation process (colloquially known as "front loading"). Making changes later that have not been subject to such scrutiny is problematical so in recommending changes I must be satisfied that the requirements for public consultation and sustainability assessment have been met so far as the changes are concerned (see Changes, below).

The Programme Officer

7. The Programme Officer is independent of the Council and works under my direction. His main tasks are to ensure the smooth running of the Examination, to organise the Hearings, to ensure that all documents submitted are recorded and distributed, to keep the Examination Library, and to act as a channel of communication between me, the Council and those who have made representations.
8. Any questions about the procedure for the Examination should be put to Ian Kemp. All relevant information on the Examination is also available on the Council's web site:
<http://www.threerivers.gov.uk/Default.aspx/Web/Development-Management-Policies-Examination>.

Supporting Documents

9. All the documents on which the Council have relied in preparing the LDD are included on their web site. Accordingly anyone submitting evidence for the Examination can simply refer to the relevant documents (with document numbers and page or paragraph numbers) rather than including extracts. Documents will also be available in

paper form from the Examination Library held by the Programme Officer.

Representations on the Plan

10. The Council received 56 representations from 19 representors during the time that the LDD was on public deposit. Four representors have indicated that they wish to attend the Hearings and a further four have said that they will make written representations. It is important to emphasise that all representations, whether made solely in writing or supplemented by appearing at the Hearings, carry the same weight. **Anyone who has not indicated to date that they intend to attend the Hearings, but decides that they wish to do so, must inform the Programme Officer by Friday 1 February** to allow others, especially the Council, to undertake the necessary preparatory work.

The Hearings

11. The Hearings will be structured but informal discussions on the content and soundness of the CS which I shall lead and which will focus primarily on an Issues and Questions paper I have prepared and which is available from the Programme Officer and posted on the Council's web site. The emphasis will be on the tests of soundness, referred to in para. 3, above, and throughout I shall be seeking to understand the various points of view of those taking part so as to be better able to reach conclusions on whether the LDD is or is not sound.
12. Only those who have made representations and intend to take part in the discussion will sit "round the table" but anyone is welcome to attend as an observer. Everyone taking part will have an equal chance to contribute to the discussion and will be able to ask questions of each other. I will have read all the relevant statements beforehand (and will expect others to come similarly prepared) so there will be no need for reading of "evidence" or formal "cross examination". Accordingly there is no need for anyone to be legally represented but equally there is no bar on barristers or solicitors taking part in the discussion on behalf of anyone who has made representations. At the end of each Hearing participants will have an opportunity to sum up their respective positions and make final comments. I will prepare and circulate agendas for each of the Hearings shortly beforehand.
13. The Hearings will commence at 10.00 on Tuesday 12 March and it is currently envisaged that they will last up to two days. There will be a break for lunch of an hour around 1.00pm and shorter breaks during the morning and afternoon. The programme for the Hearings will be available from the Programme Officer who will also be able to advise on progress whilst they are under way. The programme will also be posted on the Council's web site. Everyone taking part should familiarise themselves with the programme and ensure that they are present at the correct time. The Hearings will be held within the Colne Room of Watersmeet Theatre, High Street, Rickmansworth,

Hertfordshire, WD3 1EH. Location and Parking Details can be found via the following link:

<http://www.watersmeet.co.uk/your-visit/finding-us/#.UO6uEqXe5UM>

Statements

14. There is no obligation on anyone who has made representations on the LDD to submit anything further as those representations should give a clear indication of the writers' concerns. If anyone does wish to submit a further statement they should do so in a way that addresses the Issues and Questions paper **so far as they relate to the matters raised in the original representations**. This is not an opportunity to raise new matters, but only to elaborate on matters already raised. Statements may be submitted regardless of whether or not a representor intends to appear at the Hearings. The Council's statements should also respond to the Issues and Questions and they may if they wish respond briefly to matters raised in representations, and also make suggestions for further minor changes to the plan that might address concerns raised in representations or minor editing amendments (but see also what is said below under Changes).
15. Statements should be as succinct and focussed as possible and should follow the detailed guidance in Appendix B to this note; statements that depart from that guidance, especially in terms of length, are likely to be returned.
16. It would be helpful if those who have made representations on the LDD could in their statements make clear, ideally in a brief concluding section:
 - What part of the plan they consider unsound?
 - Which test or tests of soundness it fails?
 - Why it fails?
 - How they consider it could be made sound?
 - The precise change or wording sought?
17. The Council should make clear in their statements why they consider any particular aspect of the plan to be sound and why, in their opinion, the changes sought by others would make it unsound, again by reference to the soundness tests.
18. **All Statements should reach the Programme Officer no later than two weeks prior to the start of the Hearings, i.e. by Friday 22 February.**

Changes

19. The essential purpose of the Examination is to determine whether or not the LDD is sound and not to propose or explore changes that would "improve" it in detail but which do not bear on its soundness. Making changes to the plan once it has been submitted is potentially problematical as preparation of LDDs relies heavily upon public

consultation and sustainability appraisal during their formative stages; and any changes should also go through these processes, which could delay the Examination. However, some changes may be necessary and unavoidable to make the plan sound.

20. The Localism Act 2011 has amended the original 2004 Act to draw a distinction between *main* and *additional* modifications. The former are changes that go to the heart of the soundness of the plan and which, if necessary, I shall cover in my report to the Council. The latter are essentially minor changes that do not bear on soundness, and do not change the meaning or scope of the plan, but which correct or clarify what it says. Additional modifications are matters for the Council and I shall not cover them in my report. It may be that changes of both types will be proposed during the Examination in general and the hearings in particular.
21. If the Council or any representor propose a change it should be put forward and discussed at the earliest opportunity and consideration given to whether or not it needs further consultation and sustainability appraisal. If this is done it may be possible for an agreed position to be put to the Hearings. Such changes may well assist me though I am not bound to accept each and every one of them in my report. Suggested changes will be posted on the Council's web sites and those who have made representations may wish to comment upon them.

Site Visits

22. I will visit the District before the Hearings to familiarise myself with it and I may make further visits subsequently to look at any particular sites or areas that have been referred to if I or others consider this would be helpful. I would expect to be able to carry out most if not all of these visits alone, seeing what I need to see from public vantage points. If, exceptionally, it is necessary to go onto private land, I shall need to be accompanied by representatives of the Council and of the landowner. Anyone who envisages that such an accompanied visit may be necessary should inform the Programme Officer. However, please bear in mind that this LDD deals primarily with planning policies rather than with the merits of particular sites and that its approach is therefore essentially "broad brush".

Robin Brooks

INSPECTOR

January 2013

Appendix A

List of relevant legislation and guidance

A. Legislation

These documents can be searched for and found on:

<http://www.legislation.gov.uk/>

- Planning and Compulsory Purchase Act 2004
- The Town and Country Planning (Local Development) (England) Regulations 2012
- The Localism Act 2011

B. Government Policy and Guidance

These can be found by using the search facility on:

<http://www.communities.gov.uk/>

- National Planning Policy Framework (NPPF)

C. Plan Making Manual

The Plan Making Manual has been produced by the Government and is delivered via the Planning Advisory Service web site. Please note that recent changes have been made to Government policy so that the guidance pre-dating 27 March 2012 will not be current.

<http://www.pas.gov.uk/pas/core/page.do?pageId=51391>

See also: The Principles of Plan-Making:

<http://www.pas.gov.uk/pas/core/page.do?pageId=1786265>

D. Guidance from the Planning Inspectorate

- Examining Development Plan Documents: Soundness Guidance [The Planning Inspectorate, August 2009 (2nd Edition)]
- Examining Development Plan Documents: Procedure Guidance [The Planning Inspectorate, August 2009 (2nd Edition)]
- Examining Development Plan Documents: Learning from Experience [The Planning Inspectorate, September 2009]

See: <http://www.planningportal.gov.uk/planning/planningsystem/localplans>

Again, please be aware that these guidance notes are in need of some updating.

E. Examination and Evidence Base Documents

The Examination web site can be found at:

<http://www.threerivers.gov.uk/Default.aspx/Web/Development-Management-Policies-Examination>

Many of the above documents and most of the evidence base documents are available on-line on the Council's web site at:

<http://www.threerivers.gov.uk/Default.aspx/Web/Dmp-Ldd-Supporting-Documents>

APPENDIX B

FORMAT OF STATEMENTS

1. All statements and appendices should be sent to the Programme Officer, **in both electronic and paper form**, at the address given in para.2, above. Three paper copies should be sent in every case, for the Inspector, the Council and the Examination Library.
2. Statements should be as succinct as possible, avoiding unnecessary detail, and **limited to an absolute maximum of 3,000 words**; any longer than this are likely to be returned for editing. There is no need to repeat the original representations or to quote at length from the LDD but it should be made clear to which representations the statement relates, using the representor and representation references allocated by the Council. Statements should directly address the Issues and Questions paper.
3. Appendices should be kept to the minimum necessary to support the statement and should not contain extracts from documents already in the Examination Library, on the Council's web site or in national planning guidance; document, page or paragraph references will suffice.
4. All documents should be on A4 paper, printed on both sides and with appendices clearly identified and differentiated from the main text and cross-referenced to it. Cover pages should carry the representor's name and the representation reference(s) allocated by the Council in the top right hand corner; and the issue or question(s) addressed.
5. **Everyone submitting statements must adhere to the deadline of Friday 22 February.** Late submissions cause problems for other participants, disrupt the smooth running of the Examination and are discourteous to those who have submitted on time. **Participants should not seek to introduce additional material later or at the Hearings. No such material should be submitted after the close of the hearings unless the Inspector specifically asks for it.**