

EXAMINATION OF THE SOUTH DOWNS LOCAL PLAN
GUIDANCE NOTE FROM THE APPOINTED INSPECTOR

Notes

- i. *The following guidance should be kept for reference throughout the Examination. It should be read in conjunction with Procedural Practice in the Examination of Local Plans – The Planning Inspectorate June 2016 (4th Edition v.1) [available at <https://www.gov.uk> or from the Programme Officer]¹ and with the accompanying letter from the Programme Officer and the Draft Schedule of Matters and Issues attached.*
- ii. *Document References in [italic square brackets] are to the Examination Library List which can be viewed on the Examination web page or obtained from the Programme Officer (PO).*
- iii. *Items in **bold italic** are for particular note or action.*

Key Dates

Tuesday 11th September 2018

Advise Programme Officer of Participation.

Tuesday 16th October 2018

Firm Programme and Hearing Details for Legal and Strategic - Matters 1-6

Tuesday 23rd October 2018

Position Statements submitted for Legal and Strategic - Matters Week 1

Tuesday 30th October 2018

Firm Programme and Hearing Details for Matters 7-11

Tuesday 13th November 2018

Opening Hearing Session on Legal, Procedural and Strategic Matters

Tuesday 20th November 2018

Position Statements submitted for Matters 7-11 - Weeks 2-3

The SDNPA web site or the PO should be consulted on further dates and the progress of the Examination

<https://www.southdowns.gov.uk/planning/national-park-local-plan/>

Introductions

1. The appointed Inspector is Brian J Sims BSc(Hons) CEng MICE MRTPI.
2. The Programme Officer (PO) is Chris Banks assisted by Charlotte Glancy. The POs are not officers of the SDNPA but act as independent officers of the Examination under the direction of the Inspector. They are responsible for the organisation and administration of the Examination, keep the Examination Library and provide a

¹ <https://www.gov.uk/guidance/local-plans>

central point of contact for all parties. No-one should attempt to contact the Inspector directly. This is in order to protect his impartiality.

3. Details of how to contact the PO are as follows:

Programme Officer:

Mr Chris Banks c/o Banks Solutions
64 Lavinia Way
East Preston
West Sussex
BN16 1EF

Telephone: 01903 783722

Mobile: 07817 322750

Email: bankssolutionsuk@gmail.com

Programme

4. The programming of the Examination, and the Examination Hearings in particular, is dependent upon the commitments and availability of the Inspector and NPA staff, taking into account considerations such as a general preference to avoid conducting Hearings during school holiday periods.
5. For practical reasons, the first Hearings on Legal and Strategic Matters are scheduled to be held **Tuesday 13th to Thursday 15th November 2018** to be followed by further Hearings provisionally scheduled for **Tuesday 4th to Thursday 6th and Tuesday 11th to Thursday 13th December 2018** as explained later in this guidance note and in the associated Schedule of Matters and Issues and draft Outline Programme.

Post-submission Documents

6. After the submission of the Plan for examination, the Inspector issued a Preliminary Note [**INSP.2**] to the SDNPA relating to the administration of and approach to the Examination. The SDNPA provided a written response [**SDNPA.1**] to which the Inspector replied [**INSP.2A**].
7. Consequent upon this correspondence, the SDNPA provided a focussed summary of issues raised in the representations [**SDNPA. 2**].
8. The SDNPA has also undertaken to provide shortly after the date of this note:
- a. a schedule of its responses to representations by policy, and
 - b. a travelling draft schedule of Proposed Main Modifications (MMs), as further referenced later in this note.
9. All these documents were requested and are provided in accordance with Procedural Practice guidance by the Planning Inspectorate in the interests of time-saving and efficiency and are now part of the Examination Library and evidence to the Examination.

Hearing Venues

10. Where oral Examination Hearings are required, they will take place at the **South Downs Centre, North Street, Midhurst, West Sussex, GU19 9DH** and in

Lewes, East Sussex, as appropriate (Lewes venue to be confirmed), as indicated in the attached **First Draft Programme of Hearings**

Starting Point and Purpose of the Examination

11. The basis of the Examination is the South Downs Local Plan (SDLP) [SDLP.01] as published for consultation under Regulation 19 from 26 September to 21 November 2017.
12. Although the submitted Plan was accompanied by a Schedule of Pre-submission Changes to the SDLP [SDLP.01.1] this will now be divided into minor modifications and suggested Main Modifications potentially affecting the soundness of the Plan. Only MMs will be considered in the Examination. Minor changes not affecting soundness are a matter solely for the NPA.
13. The Inspector will first consider whether the Plan is compliant with the Duty to Co-operate and other legal requirements, as set down in the National Planning Policy Framework of 2012 (NPPF 2012 – see *below*) and in relevant legislation².
14. Otherwise, the Examination is an independent check on the soundness of the Plan, concentrated mainly on whether its strategy, development requirements and allocations of sites are justified, effective and supported by a robust evidence base.

Revised National Planning Policy Framework

15. On **24 July 2018** the Government published the final version of its revised National Planning Policy Framework (NPPF).
16. **Annex 1** (paragraphs 212-217) of the revised Framework sets out the implementation arrangements for applying the policies contained within the NPPF 2018. Policies within the new Framework are material considerations which should be taken into account for deciding planning applications from its day of publication.
17. **For the purpose of examining plans, however, in accordance with Paragraph 214 of the revised Framework, the policies in the previous Framework of 2012 will apply where, as in this case, the Plan was submitted on or before 24 January 2019** (6 months from the date of publication of the new Framework).
18. Accordingly, in connection with the currently ongoing Examination of the SDLP, **the Inspector will not seek the comments of the NPA or Representatives on the implications of the revised Framework for the Plan. The Examination will continue with reference to the Framework of 2012.**
19. There would need to be very clearly stated, persuasive reasons for any departure from these transitional provisions.
20. In accordance with **Paragraph 213** of the revised Framework, the policies of the Plan, once adopted, should not be considered out-of-date simply because they pre-date the publication of the revised Framework. Weight should be given to them according to their degree of consistency with the revised Framework.

² The Town and Country Planning (Local Planning) (England) Regulations 2012
The Localism Act 2011 Section 112

Main Modifications and Policies Map

21. The NPA has formally requested under section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended) that the Inspector recommends such MMs as may be necessary to make the Plan sound.
22. As stated above, any additional minor modifications not affecting soundness but improving accuracy or clarity may be put forward by the NPA but are not themselves for examination.
23. Suggested MMs are for discussion and consideration during the Examination as part of the evidence.
24. All proposed MMs will be made subject to further public consultation, when all representations will be taken into account before any recommendation for the adoption of the MMs is made.

Scope of the Examination – Alternative or ‘Omission’ Sites

25. It is not for the Inspector to seek to improve the Plan or make it “more sound”. The Inspector will make recommendations for MMs only where necessary to ensure soundness.
26. There will accordingly be no oral sessions on “omission sites”. That is because the Plan is the property of the NPA and the community. In the spirit of Localism it is not for the Inspector to recommend specific alternative sites or land uses. Such concerns will be considered with respect to the rationale for the identification and selection of sites. In the event that the Plan were to be found unsound with the sites it allocates, the NPA would be asked to consider and propose additional or alternative sites as MMs to the Plan for further consultation.
27. Nevertheless, Representors promoting sites or uses not allocated in the submitted Plan have a right to be heard in support of a duly made objection. However, an objection to the “omission” of a site is, in effect, an objection to the site selection process or the deliverability of development land or to the Plan strategy and will be redirected and heard, as such, in the appropriate sessions reserved for those issues or, if necessary, in a general session.
28. If matters of current existing development or specific applications for planning permission are of concern to Representors, these are for separate consideration in relation to development management or the determination of individual planning applications or appeals. They are not directly for this Examination.

Appearances and Written Evidence

29. Equal weight will be given to the original written responses to the Submission Consultation as to oral submissions. Representors seeking a change to the Plan therefore need only exercise their right to be heard when they wish to discuss matters with the NPA and the Inspector.
30. Before deciding whether to appear, Representors should study the Summary of Issues and Council Responses (once published) to note how the Council may have dealt with their concerns.

31. Persons and organisations of a similar point of view are urged to combine together because the Inspector will not allow repetition. The PO will assist in such arrangements.
32. Occasionally, the Inspector may invite a person or organisation who has not expressed a wish to appear to take part in a Hearing where this would be advantageous to his understanding of the evidence.

Position Statements

33. In order to assist all participants preparing for the Hearings and to facilitate focussed discussion, ***all Representors intending to appear are invited to submit a Position Statement (PS) for each matter they are invited to discuss.*** The NPA is expected either to rely upon the series of Background Papers listed in the Examination Library to serve as its PSs or otherwise to submit further position statements to address specific issues.
34. The interval between the publication of the firm programme and the date for submission of PSs is short. However, ***Representors are advised to consider in advance the content and presentation of their PSs in light of the accompanying Schedule of Matters and Issues.***
35. ***PSs for the first round of legal compliance and strategic Hearings must be sent to the PO no later than Tuesday 23rd October 2018, summarising in a strict maximum of 3000 words per Matter the NPA's or Representor's position on the issues of concern. No rebuttal papers will be accepted.***
36. ***The submission of a PS must not be taken as an opportunity to submit new responses or fresh evidence.*** The PS must not be accompanied by any appendices. ***Reliance must be placed essentially on the Original Response to the Pre-submission Plan, which is taken as the complete case for the Representor.*** The only exception is that MMs so far proposed may be addressed.
37. ***PSs will only be accepted if they bear the name of the Representor and the Hearing to which they relate and are printable to A4 paper format. They will not be accepted with special title sheets or binding.***
38. ***The PS would helpfully make cross-reference to the Original Response. Alternatively, Representors may choose to rely entirely upon their Original Representation, advising the PO accordingly. Such cross-references should be by Representation Number with reference to the Examination Database held by the PO, who will advise Representation Numbers if necessary.***
39. ***Three paper copies of the PSs are to be submitted to the PO for distribution to the Inspector, the Authority and a copy for the Examination library. Additionally, an electronic copy is required for posting on the examination website and to enable the PO to circulate all PSs participants of the Hearing sessions.***
40. Once the Hearing Sessions are completed the Inspector will not accept further written information from anyone unless he has himself requested it. Any unsolicited items will be returned.

Provisional Schedule of Matters and Issues for Discussion and Programme of Hearings

41. The Inspector has prepared a Schedule of Matters and Issues for consideration and provisional Programme of Hearings [INSP.4]. For the time being, this is limited to legal land strategic matters.
42. Where Representors have raised a strategic matter of soundness not identified by the Inspector but still wish to appear, a suitable item may be added to an appropriate Hearing session. ***If any Representor considers that an additional item is required, this should be raised with the PO at the earliest opportunity.***
43. A firm programme will be drawn up as soon as possible after responses to the invitation to participate are known and published by **Tuesday 16th October 2018**. The Inspector will issue an Agenda to structure the discussion at each Hearing, normally shortly before the date that the Hearing is to take place. The Agenda will often identify which speaker may be invited to open discussion on any given points.
44. It is anticipated that that Hearings on Legal and Strategic Matters will take place first, some weeks ahead of those for individual sites and development management policies.

Conduct of Hearings

33. Examination Hearings are inclusive, relatively informal, round table sessions, where the Inspector leads a discussion on the matters of soundness he has identified from the representations, the evidence base of the NPA and his own reading of the documentation. The Inspector will deal with the Duty to Co-operate and any other points of Legal Compliance immediately after opening the first Hearing session.
35. Only very exceptionally would formal cross-examination be permitted and then only in response to convincing submissions in advance that this is essential to the proper testing of the evidence on a particular point.
36. When invited to take part in a Hearing session, participants on arrival are asked to find their nameplate and take their place at the table. During the discussion, the nameplate can be stood on end to indicate a wish to speak. Only one seat is provided per Representor but participants may change round during the proceedings according to their subject of interest. In view of their particular position in covering the whole Plan, two or sometimes more NPA representatives may sit at the table, depending on the subject under discussion.
37. Representors are requested to keep in touch with the PO or the NPA Examination web page regarding the programme. Generally sessions are held on Tuesdays to Thursdays from 10am to 5pm with a break for lunch and short mid-session adjournments.
38. Members of the public not involved in the Hearings may of course attend to observe.

Document Library

39. The Document Library is available to view via the Council website or the PO. An updated Library List will be displayed on the website with links to electronic versions of all Documents.

Site Visits

45. The Inspector will carry out a tour of the South Downs area to ensure that he is familiar with the SDNP as a whole. Where necessary, the Inspector will visit sites referred to in the representations, normally unaccompanied, save where access might be required to private land. In that case, the PO will arrange a suitable date and time for an accompanied visit.

Report by the Inspector and Close of the Examination

46. The Inspector will not complete his Report until he is satisfied that all Representations and other evidence have been taken into account and that he has gathered all the information he requires to form reasoned conclusions on any matter of soundness.
47. In line with established current practice, the Report will be as brief as possible, consistent with dealing with all matters of legal compliance and soundness and will not rehearse the individual arguments of Representors. The essential focus of the Report will be upon any Main Modifications required to ensure the soundness of the Plan.
48. The Examination itself will be formally closed on delivery of the Report to the NPA.

Next Steps

49. ***If you consider that the attached draft Schedule should include matters or issues other than those listed or if you have any queries on any aspect of the Examination process, please contact the PO as soon as possible.***
50. ***Please confirm to the PO by Tuesday 11th September 2018 whether you wish to attend a Hearing and upon which Matters and Issues you wish to speak.***
51. ***Representors are advised to begin preparation of Position Statements on the basis of the accompanying schedule of Matters and Issues, in order submit them to the PO by the due dates shown above at the head of this document in the KEY DATES box.***

Brian Sims

Inspector

3rd August 2018