

BRIEFING NOTE FROM THE INSPECTOR

Introduction

1. These Guidance Notes provide information about the Examination of the Somerset Minerals Plan and are intended to assist with the efficient running of the Examination. The term "Examination" refers to the whole process whereby the Inspector considers the Plan. It starts with the Council's submission of the Plan to the Planning Inspectorate, and ends when the Inspector's report is formally submitted to the Council. Therefore, the Examination process has already started.
2. The Hearing Sessions, which are part of the overall Examination, will open on **Tuesday 23rd September 2014 at 10.00am** (venue to be confirmed and notified in due course).

The Inspector's role

3. The Inspector appointed to hold the Examination is Elizabeth Ord LLB(Hons), LLM, MA, DipTUS. She has the following main roles:

to consider whether the Plan has been prepared in accordance with the Duty to Co-operate as required by the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011).

to consider whether the Plan meets the legal requirements of the Planning and Compulsory Purchase Act as amended, and the requirements of the Town and Country Planning (Local Planning)(England) Regulations 2012;

to consider whether the Plan is sound; and

to carry out the Examination with the objective of contributing to the achievement of sustainable development as set out in section 39 of the Planning and Compulsory Purchase Act.

4. Unlike the other requirements, there is no scope to remedy any shortcomings with respect to the Duty to Co-operate. If the Duty to Co-operate has not been complied with, the Plan will fail.
5. The soundness of the Plan is based upon the four soundness criteria set out in the National Planning Policy Framework (the Framework), namely that the draft Plan is: Positively prepared, Justified, Effective and Consistent with national policy.

Paragraph 182 of the Framework advises on the meaning of each of these criteria as follows:

1) *positively prepared* (based on a strategy that seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development);

2) *justified* (the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence);

3) *effective* (deliverable over its period and based on effective joint working on cross-boundary strategic priorities); and

4) *consistent with national policy* (enabling the delivery of sustainable development in accordance with the policies in the Framework). Appendix A contains a list of useful publications and web sites for advice.

6. When examining plans under the current system the following should be noted:

The focus is on the Plan rather than the representations. The Inspector's role is to examine the Plan having regard to the representations submitted and issues identified, rather than considering individual objections. The Hearings are akin to an Examination in Public with round table or informal Hearing Sessions addressing particular topics, rather than a public inquiry which is more adversarial in nature.

7. Through the Programme Officer (PO), the Inspector will work with the Council and the Examination participants in a proactive, pragmatic and solution-orientated manner. Those taking part should aim to be cooperative and respectful.
8. If the Inspector considers that the Plan has shortcomings with respect to legal compliance and/or soundness, the Council may request her to make such modifications (main modifications) to the Plan as are necessary in order to rectify these shortcomings. The Inspector will then do this. Main modifications will only be considered where the Council has formally requested that such modifications be recommended by the Inspector.
9. The Inspector is not concerned about "additional modifications" (formerly called "minor modifications), such as matters of clarification, factual updating or correction, which do not affect legal compliance or soundness. The Council may make additional modifications of its own accord and they will not be examined.
10. The Inspector has no power to recommend changes that are merely "improvements" which do not affect the soundness of the Plan. Nevertheless, the County Council may wish to make such improvements, which may be in response to the concerns of representors. This in an approach the Inspector will encourage, where appropriate.
11. If main modifications are needed, the Council will prepare a schedule of main modifications after the Hearings Sessions, which will be available on the website. This will set out the exact wording of the main modifications. The Inspector will address these main modifications in her report, but only after representors have had an opportunity to comment in writing on those modifications. Main modifications will be subject to the process of sustainability appraisal and habitats assessment (if appropriate). It will also be subject to at least six weeks' publicity, which will provide the opportunity to make representations.
12. After the Hearing Sessions or, if needed, the main modification process, the Inspector will submit a Report to the Council, with her conclusions and recommendations. The report will deal with broad issues and generally will not deal with individual representations.
13. If the Inspector is satisfied that the duty to co-operate has been complied with, and the Plan is legally compliant and sound, she will recommend adoption. The Council may then adopt the Plan as it is or with any additional (minor) modifications that it thinks are appropriate. If the Inspector is satisfied that the duty to co-operate has been complied with, but that main modifications are required to resolve issues of legal compliance and/or soundness, the Council may only adopt the Plan with the incorporated main modifications. If it so wishes, the Council may also make additional modifications. If the duty to co-operate has not been satisfied, the Plan cannot proceed to adoption.

The Programme Officer (PO)

14. The PO for the Examination is Ian Kemp. He is entirely independent of the Council, has not been involved in the preparation of the Plan and works under the Inspector's direction. Mr Kemp can be contacted on 01527 837920, mobile 07723 009166, by email at idikemp@icloud.com or by post at 49 All Saints Place, Bromsgrove, Worcestershire, B61 0AX.

15. The main tasks of the PO are to act as a channel of communication between the Inspector and everyone involved; liaising with all parties to ensure the smooth running of the Examination; to ensure that all documents received are recorded and distributed; and to keep the Examination library. Copies of the Examination documents are mainly on the Council's web site (see below). A hard copy record will be held at the Council Offices prior to the Hearings and at the Hearing Session venue whilst they are in progress, anyone interested in viewing any of the documents in person should contact Mr Kemp beforehand in order to ensure availability.
16. During the Examination the PO will be able to tell you how closely the Hearing Sessions are following the circulated programme. Alternatively, you will be able to view a regularly updated programme on the web site at:

<http://www.somerset.gov.uk/mineralsplan>
17. Any participant who has a disability that could affect their contribution to the Examination should contact the PO as soon as possible so that any necessary assistance can be provided. All other procedural questions or other matters that a participant wishes to raise prior to the Hearings should be made through the PO.

Pre-Hearing Meeting (PHM)

18. A PHM will take place on **Wednesday 30th July 2014 at 10.00am** within the Luttrell Room of Somerset County Council's County Hall, The Crescent, Taunton, TA1 4DY. For those of you intending to attend the PHM please report to the County Council's main reception located within Block B of County Hall shortly before 10.00am. The purpose of the PHM is to explain and discuss procedural and administrative matters relating to the Examination. This will include details about the programme, further submissions and the procedure to be followed. The content and merits of the Plan and the representations previously made will not be discussed at this meeting. Those who wish to be involved in the subsequent Hearing Sessions of the Examination are invited to attend but attendance is not compulsory.
19. At the PHM the Inspector will confirm the Council's response to a series of procedural questions in order to ascertain whether the Plan has been prepared in accordance with the statutory procedures and that regard has been had to relevant documents. An agenda accompanies these notes.
20. The Inspector will shortly prepare a list of 'Issues and Questions', which will underpin the subsequent Hearing Sessions and she will invite the submission of further written statements from participants directly related to the identified issues. A note of the PHM, along with any revisions to the Hearing Sessions will be made available after the meeting.

Number of representations

21. 617 representations were received on the Pre Submission Plan from 91 respondents. All representations made during the consultation will be taken into account in the Examination insofar as they relate to the Inspector's consideration of legal compliance and soundness.

Progressing representations

22. The starting point for the Examination is the assumption that the Council has submitted what it considers to be a legally compliant and sound plan. Those seeking changes should demonstrate why the Plan is not legally compliant and/or sound.
23. The Council should rely on evidence collected whilst preparing the Plan in order to demonstrate its soundness.

24. Those who have made representations on the Plan should have already indicated whether they want their views to be dealt with in a written form or whether they want to discuss them orally at a Hearing Session. Both methods carry the same weight and the Inspector will have equal regard to views put orally or in writing.
25. Attendance at a Hearing Session will only be useful and helpful to the Inspector if a representor wishes to participate in a debate. Participants will be there to help the Inspector, and could be asked to comment on things that are not directly related to their own written submissions.
26. The Inspector may also specifically invite participants to particular sessions if she thinks that would assist the Examination.
27. The Hearing Sessions will only discuss the issues and questions that the Inspector has raised. If participants feel that there are important matters that have not been identified for discussion, or wish to participate in a Hearing please let the PO know by no later than **12:00 on Friday 5th September 2014**.
28. There is a need for everyone to work together during the Examination process, particularly on any main modifications that are required to the Plan. However, it should be borne in mind that, in some circumstances, too many alterations might cumulatively render the Plan unsound.

The Hearing Sessions

29. Each Issue will be the subject of a separate session. The format will provide a relaxed and informal setting for a discussion led by the Inspector. It is not necessary for those attending to be professionally represented but a professional expert may act if participants so wish. However at Round Table sessions there will normally only be space at the table for one representative of each group or organisation (apart from the Council, who have more seats), though there is no objection to the representative changing, providing this is made known at the time.
30. Legal representatives take part as a member of the team, not in a traditional advocate's role, as no cross examination or opening/closing statements will normally be permitted.
31. The Inspector will draw those present into the discussion in such a way as to enable her to gain the information necessary to come to a firm conclusion on the matters before her. All statements should be read beforehand by all participants and discussions will proceed on the assumption that they have been; there will usually be no need for formal presentation of evidence, although in some circumstances this may be appropriate. There may be an opportunity within the discussion to ask questions of the other participants. No more evidence should be submitted once the Hearing Session has closed unless the Inspector expressly requests it. The PO will almost certainly return any that is.
32. The Hearings will be inquisitorial rather than adversarial. The Inspector will endeavour to progress them in an effective and efficient manner. As part of that process, it is her aim to minimise the amount of material necessary to come to informed conclusions on the issues of legal compliance and soundness. In that way she will conduct a short, focused series of Hearings and, in turn, produce a short, focused report.

The Hearing programme

33. A draft Programme for the Hearings, putting dates and times to the Issues and Questions, will be circulated in due course. Once available, should you have any queries, please raise them with the PO as soon as possible.
34. Should changes be required to the Programme, it will be updated on the Examination web site. The PO will also be able to provide information on any changes. However, it will be for individual participants to check on the progress of the Hearings, either on the web site or with the PO, and to ensure that they are present at the right time.
35. After the first day (10.00am), the Hearing Sessions may start at 09:30 each day. Sessions normally finish no later than 17:00. There may be some days when there are only sessions in the morning with site visits in the afternoon. No new session (Issue) will begin before its stated start time but a later start may be unavoidable if a previous session (Issue) has overrun. Please refer to the web site where any alterations to the timetable will be posted. A short break will be taken mid-morning and mid-afternoon. Lunch will be taken at around 13:00hrs.

The Evidence Base and Examination Library

36. The Council has prepared an evidence base list that will be available in the Examination Library (available online and to view in hard copy on request via the PO). The evidence base includes documents to which the parties are likely to need to refer. Most of these will be available on the web site, which will be regularly updated. Accordingly, parties should not attach extracts of these documents to their Statements as they are already Examination documents. However, where reference is made to an Examination document the reference number should be given as should the section or paragraph where the point referred to can be found. This will allow other participants to see for themselves the context in which the point is made.

<http://www.somerset.gov.uk/policies-and-plans/plans/minerals-development-plan/minerals-plan/?catid=1853&p=4>

Statements of Common Ground

37. Statements of Common Ground are welcome where these would be helpful in identifying points not in dispute, thereby assisting the Hearings to concentrate on the key issues that truly need public discussion. They could for example include: agreed wording of a suggested change to a policy, agreed factual information or areas or points of disagreement.
38. Work on such statements should commence as soon as possible with the aim of completing them in time to influence relevant Hearing Statements.

Statements

39. All further representor statements, for both the Hearing and further written representations, must be sent to the PO by **12:00 Friday 5th September 2014**. This deadline relates to the receipt of both paper copies and electronic copies. Three Paper Copies of all statements will be required and separate statements should be submitted for each individual issue addressed, please do not combine multiple issues in submitted statements. All further written submissions/statements should only address the Issues and Questions. The Council's Statements may also include responses to the matters in the original representations and should refer to any proposals for changes to the policies, text or plans. All statements will be placed on the Examination web site as soon as possible.

Form of Statements

40. Appendix B of this document sets out the requirements for the presentation of all Statements. Its provisions should be thoroughly read and implemented. Statements that do not comply with these requirements will be returned. Please note the 3,000 word limit.
41. Essentially, the Inspector needs to know the following from those submitting further statements:
 - What particular part of the document is unsound or not legally compliant;
 - With respect to soundness, which test(s) does it fail and why;
 - With respect to legal requirements, why it is not compliant;
 - How could the document be made sound or legally compliant;
 - What is the precise change that is sought;
42. If a participant believes that the duty to co-operate has not been met, the reasons why must be clearly set out.
43. From the Council the Inspector will require a brief response statement on each question, setting out why it considers the Plan to be legally compliant or sound in that respect.

Site visits

44. The Inspector will have toured parts of the County to familiarise herself with the area. She will visit the main sites referred to in the representations before, during, and/or after the Hearing Sessions. Some of this will be done accompanied and some unaccompanied.

Close of the Examination

45. Once the Inspector has gathered the information necessary to come to reasoned conclusions on the main issues, she will write the Report. The Examination remains open until the Report is submitted to the Council; however, once the Hearing Sessions are over the Inspector will receive no further information from any party, unless it is a matter on which she has specifically requested it. Any unsolicited items sent in will be returned to the sender.

Submission of the Report to the Council

46. The timing of the report submission is dependent on progress. The Inspector would expect to provide an indication of potential timeframes at the close of the Hearing Sessions.

Appendix A - List of relevant legislation and guidance

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

Government Policy and Guidance

National Planning Policy Framework (the Framework)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

Guidance from the Planning Inspectorate

Examining Local Plans Procedural Practice, December 2013, 3rd Edition

http://www.planningportal.gov.uk/uploads/pins/dpd_procedure_guide.pdf

Examination and Evidence Base Documents

The Examination web site can be found at:

<http://www.somerset.gov.uk/policies-and-plans/plans/somerset-minerals-plan-examination/>

Many of the above documents and most of the evidence base documents are available on-line through the web site and can be found towards the end of the page.

Appendix B - Format for statements

- A. Please send, where possible, e-mailed electronic versions of all Statements and Appendices to the PO (in Word or PDF format) for the Examination web site as well as **Three Paper copies** as detailed below. **Individual statements should be submitted for each issue addressed – please do not combine multiple issues in single statements.**
- B. The Inspector emphasises the need for succinct submissions with the avoidance of unnecessary detail and repetition of the original representation.
- C. It is the quality of the reasoning that carries weight not the bulk of the documents. There is no need for verbatim quotations from the Plan or other sources of policy guidance. It is vital that the fundamental elements are set out clearly and succinctly – the Hearing Sessions are not the place for surprise contributions!
- D. None of the statements should be longer than **3,000 words**. For the avoidance of doubt, this limit applies to statements for the overall issue and not the individual questions. Statements should be prepared on A4 paper and **not bound** in any way but just stapled and hole punched. Any plans or diagrams should also be folded to A4 size and listed as Appendices.
- E. Supporting material in the form of appendices to statements should be limited to that which is essential and should not contain extracts from any publication that is already before the Examination, such as evidence base documents and nationally available Government guidance – a paragraph or page reference will suffice. Any appendices should have a contents page and be paginated throughout. Whilst the word limit does not include text in appendices, the aim of succinctness should be respected. Anyone submitting appendices should indicate in their statement which parts they are especially relying upon.
- F. A separate statement should be submitted for each issue covered. Multiple issues should not be combined into a single statement. Each statement should specifically address questions covered within an individual issue. This will assist distribution, publication and understanding during the Hearing Sessions.
- G. All participants must adhere to the timetable for submitting statements. Late submissions and additional material will **not be accepted** since this can cause disruption and result in unfairness. If material is not received by the stated deadlines, the PO will assume that original representations only are being relied upon.
- H. Statements are to be received by the PO by **12:00 on Friday 5th September 2014.**
- I. **It is stressed that these deadlines refers to the receipt of both electronic and paper copies of statements. It is not sufficient to send an electronic copy by this deadline to be followed by paper copies at a later time.**
- J. **All paper copies of statements should be addressed to the PO at the following address:**

**Mr Ian Kemp
49 All Saints Place
Bromsgrove
Worcestershire
B61 0AX**