

Examination of the South Worcestershire Development Plan Review

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Examination web pages: <https://www.localplanservices.co.uk/swdpreview>

GUIDANCE NOTE FROM THE INSPECTORS

Purpose

1. The South Worcestershire Development Plan Review (the Plan) was submitted for examination on 27 September 2023. We have been appointed by the Secretary of State to conduct the examination. This note provides guidance on the procedural and administrative arrangements for the examination.
2. Further information on the examination process can be found in the Planning Inspectorate's publication 'Procedure Guide for Local Plan Examinations' which is available via <https://www.gov.uk/guidance/local-plans>. There is also a short guide aimed particularly at those taking part in an examination for the first time.

Programme Officer

3. Ian Kemp is the Programme Officer (PO) for the examination. He is working under our direction and is independent of the Councils. His contact details are given above.
4. The main tasks of the PO are to act as the channel of communication between Inspectors, the Councils and representors and participants, to liaise with all parties to ensure the smooth running of the examination, to organise the hearing programme, and to oversee the publication of documents on the examination webpage.
5. Any procedural questions or other matters that you wish to raise should be directed to the PO.

Examination webpage

6. The examination webpage content is controlled by the Inspectors and the PO. All documents for the examination, including the evidence base and the procedural material, are published on the examination webpage – the link is provided above.
7. If you do not have access to the internet, please contact the PO so that alternative arrangements can be put in place.

Inspector's role

8. Our task is to consider whether the submitted Plan complies with the relevant legislation and is sound. The National Planning Policy Framework (NPPF) (paragraph 35) makes it clear that in order to be found sound the Plan must be:
 - a) positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
 - b) justified – an appropriate strategy taking into account the reasonable alternatives, and based on proportionate evidence;
 - c) effective – deliverable over the plan period and based on effective joint working on cross boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - d) consistent with national policy – enabling the delivery of sustainable development in accordance with the NPPF's policies and other statements of national policy, where relevant.
9. It is not part of our role to make improvements to the Plan, provided that it is sound and legally-compliant.
10. It is important to note that the Plan is being examined under the transitional arrangements set out in NPPF (December 2024) in paragraphs 234 to 236, which means that the Plan will be examined against the version of the NPPF published in September 2023.

The examination

11. 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 the preparation of additional evidence; or
 - the submitted plan is not sound and could not be made sound by changes. If so, we would be likely to recommend that the Councils withdraw the plan. The same would apply if there is a failure of legal compliance which cannot be remedied (for example, a failure to comply with the duty to cooperate).
12. After the hearing has closed, we will prepare a report for the Councils setting out our conclusions and recommendations. Our report will deal with the main issues of soundness and legal compliance, taking into account the representations made but without responding to each of them.

Changes to the plan

13. The starting point for the examination is that the Councils have submitted a plan which they think is ready for examination.¹ Now that the Plan has been submitted there are only two means by which changes can be made to it:
 - a) as main modifications recommended by the Inspectors; or
 - b) as additional modifications made by the Councils.
14. We can only recommend main modifications if they are necessary to make the submitted Plan sound and/or legally-compliant. Any potential main modifications must be subject to consultation before we recommend them, and in some cases, they may also require further sustainability appraisal, and Habitats Regulations Assessment.
15. Additional modifications (sometimes also referred to as “minor modifications”) are changes which do not materially affect the policies in the Plan. They may be made by the Councils on adoption and do not fall within the scope of the examination. The Councils are accountable for any additional modifications that are made.
16. The Councils have identified a number of ‘minor modifications’ to the Policies Map in CD23 SWDPR Interactive Policies Map Minor Modifications. The Policies Map is not defined in legislation as a development plan document. This means that we have no powers to recommend Main Modifications directly to it. However, as the role of the Policies Map is to illustrate geographically the application of policies in the Plan, if the geographical illustration of a policy is flawed, the policy will be unsound. In such circumstances, we would ask the Councils to draw up a proposed change to what is shown on the submission Policies Map.

Representations made on the Plan

17. The Councils have prepared a Consultation Statement (Regulation 22) which includes details of the consultation that has taken place on the Plan, and a summary of the main issues raised in the representations.
18. A full set of the representations made on the Plan at the pre-submission (Regulation 19) stage has been provided to us and we will take them all into account. The legislation does not require us to take account of any representations made at any earlier stage, including under Regulation 18.

Examination hearing

19. The examination hearing, which forms part of the examination of the Plan, will commence at 9.30 am on Tuesday 4 March 2025. The hearings will be held in the Worcester Guildhall, High St, Worcester WR1 2EY (weeks 1 to 3) and the Wychavon District Council Civic Centre, Queen Elizabeth Drive, Pershore

¹ S20(2) of the Planning and Compulsory Purchase Act 2004

WR10 1PT (week 4). The draft programme for the hearing [EXAM 34] is being issued at the same time as this guidance note.

20. Discussion at the hearing will be based on our matters, issues and questions [EXAM 36], which is also being issued at the same time as this guidance note. A more focussed agenda providing further guidance for the discussions may be published in advance of one or more of the hearing sessions. The timings on the draft programmed may change once the number of participants of each session is finalised.

The scope of our examination, and omission sites

21. Some representations are concerned with what are known as “omission sites”. These are sites which have not been allocated in the Plan for development. However, our role is to examine the soundness of the submitted Plan. It is not part of our role to examine the soundness of sites that are not allocated in the Plan. Consequently, we will not hold a hearing session dealing specifically with sites that have not been allocated in the Plan, nor will we discuss the merits of omission sites at other session(s).

Attending the hearing

22. Anyone may attend the hearing as an observer, but only those who have made representation(s) seeking to change the Plan have a right to appear before, and be heard by, the Inspectors.
23. Written representations carry the same weight as those made orally at a hearing session. Participation at the hearing is therefore only likely to be beneficial if you have specific points to contribute on the published matters, issues and questions. Normally you may only take part in the hearing session(s) that are relevant to your original representation(s).
24. If you have a right to be heard and you wish to exercise that right, you should contact the PO by **5.00 pm on Friday 31 January 2025** indicating which session(s) in the published hearing programme you wish to participate in. You must do this regardless of what you may have indicated in your original representation(s). Please note that if you do not contact the PO 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.
25. Representors who are not seeking changes to the Plan, including those who have made representations supporting it, do not have a right to take part in the hearing. However, we may invite additional participants to take part in the hearing if we consider that their participation would assist us in determining the soundness and legal compliance of the Plan.
26. To ensure that there is sufficient space, organisations participating in the hearing sessions will normally be allocated one seat at the hearing, with members of their team “hot-seating” as necessary. Similarly, unless space

permits, the Council may need to limit the number of its representatives to those needed to deal with the topic under discussion.

27. Where several representors or organisations who have similar points to make wish to attend the hearing, it would assist us if they would arrange to be represented by one or two spokesperson(s).
28. Please let the PO know as soon as possible if you have any specific needs or requirements to enable your attendance at and/or participation in the hearing session(s).

Hearing statements

29. The Councils should produce a statement for each hearing session responding to all the identified matters, issues and questions.
30. Other participants in the hearing sessions should only submit hearing statements if they have points to make on the identified matters, issues and questions. Statements should be concise and focussed, and in any event must contain no more than 3,000 words for each matter. They should:
 - clearly identify (by reference number) which specific matters, issues and questions are being answered;
 - only answer the specific matters, issues and questions which are of direct relevance to your original representation(s);
 - not introduce new evidence or arguments,
 - provide a separate submission for each matter being addressed.
31. We appreciate that the Councils have been updating parts of the evidence base (at our request) and that circumstances may have moved on, on some topics from when you made your representations. You are strongly advised to read the updated evidence to assist you in preparing your statements.
32. Please refrain from commenting on matters which go beyond the scope of our questions.
33. Appendices should only be included if they are directly relevant and necessary and should not be used as a means of increasing the word-count. In this regard, do not submit further statements in the guise of appendices. If you need to refer to a large document that is not on the examination webpage, please contact the PO as it may be more efficient for it to be added to the webpage rather than attached to a statement. We appreciate that some time has elapsed since the Plan was submitted for examination and consider that the addition of further relevant documents to the library is the most efficient way of providing an up-to-date evidence base.
34. The Councils statements should also be focussed and succinct. However, because the Councils have to answer every issue and question, it may be necessary to go over the limit of 3,000 words per matter.

35. It is intended that all examination documents will be electronic versions. Please email electronic versions of your statement(s) and any appendices to the PO in Word or PDF format **by 5.00 pm on Tuesday 11 February 2025**. If you are unable to email your statement, please contact the PO so that alternative arrangements can be made.
36. Hearing statements will be posted on the examination webpage after the submission date, 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. Anyone who is unable to access them on the webpage should contact the PO. Representors should redact any sensitive data prior to the submission of hearing statements as statements will be published and made available publicly.
37. Once the date for submitting hearing statements has passed, no other written evidence will be accepted, unless we specifically request it. In fairness to other participants the hearing sessions should not be used to introduce additional or new evidence.

Statements of Common Ground

38. In the context of the duty to co-operate, the NPPF in paragraph 27, expects one or more statement(s) of common ground (SoCG) to be produced documenting the cross-boundary matters being addressed and progress in co-operating to address them.
39. It is often also useful for SoCGs to be drawn up between Councils and other public bodies, other participants or site promoters to confirm specific matters that have been agreed, particularly if those matters have previously been the subject of representations raising soundness or legal compliance issues. SoCGs should also helpfully highlight matters that remain in contention, or the position regarding individual allocated sites.
40. If any further SoCGs are to be prepared or finalised, then they should, wherever possible, be completed **by Friday 31 January 2025** and published as examination documents so that other representors are aware of their contents before submitting their hearing statements. This should not preclude the Councils from continuing to engage on outstanding issues with other bodies and updating any SoCGs as necessary.

Conduct of the hearing sessions

41. The hearing sessions will be based on the identified matters, issues and questions. To maximise the effectiveness of hearing time, we will focus on key issues and matters where after reading statements, we need further information. So, where written responses to our matters, issues and questions provide us with the information we need on a particular issue, we will explain that and may not consider that issue further at the hearing.

42. Each hearing session will deal with these by way of a structured discussion which we will lead, taking an inquisitorial approach. There will be no formal presentation of cases or cross-examination. Participants may, if they wish, bring professional experts with them, although this is not essential.
43. Discussion at the hearing sessions will focus on the issues that we need to hear further discussion about, in order to reach conclusions on the soundness and legal compliance of the Plan, and on any potential need for main modifications. We will make a few brief introductory comments on the issues to be covered and then invite individuals to respond to specific questions. We will have read all the relevant representations and statements beforehand, and will expect other participants to have done so as well. The hearing sessions are not an opportunity to repeat a case already set out in written representations.

Hearing programme

44. The hearing sessions will normally start at 9.30 am each day. Updates to the hearing programme, if required, will be available on the examination webpage. It is the responsibility of individual participants to check the latest timetable and to ensure that they are present at the correct time, as timings are liable to change. Short breaks will normally be taken at convenient points.

Site visits

45. We will carry out site visits before, during, or after the hearing as necessary to inform our assessment of the soundness of the Plan. All site visits will be unaccompanied, unless it is necessary to go onto private land, in which case we will make the necessary arrangements via the PO.

Close of the examination

46. The examination will close when our report is submitted to the Councils. However, unless we specifically request them, no further representations or evidence will be accepted after the hearing sessions have finished. Late or unsolicited material may be returned.

Summary of the examination programme

- 3 January 2025 - Matters, issues and questions, draft hearing programme and Inspectors' guidance note published.
- 31 January 2025- Deadline to confirm with the PO whether you wish to exercise your right to appear at an examination hearing session.
- 31 January 2025 - Deadline for submission of statements of common ground.
- 11 February 2025 - Deadline for submission of hearing statements.
- 4 March 2025 - Hearing sessions begin.

Further information

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

Relevant guidance – available from <https://www.gov.uk/guidance/local-plans>

Procedure Guide for Local Plan Examinations

Short guide to taking part in local plan examinations

National Planning Policy Framework (September 2023)

Planning Practice Guidance, including the section on Plan-making

Relevant legislation – available at <http://www.legislation.gov.uk/>

Planning and Compulsory Purchase Act 2004 (as amended)

The Town and Country Planning (Local Planning) (England) Regulations 2012
(as amended)

P Lewis and E Worthington

INSPECTORS