

LB Waltham Forest Development Management Policies Local Plan Document

Advice for hearing sessions starting 21 May 2013

Introduction

- 1.1 My name is Paul Clark. I am a Chartered Town Planner. I have been appointed by the Secretary of State to hold an Examination into the soundness of the Development Management Policies Local Plan Document (DMPLPD) prepared by the London Borough of Waltham Forest. I am assisted by the Programme Officer for the Examination, Andrea Copsey. She is an employee of the Council but, for the purposes of the examination, acting as an independent officer under my direction.

Purpose of this advice

- 2.0 In my introduction I referred to the "Examination" of the Development Management Policies Local Plan document. People may think that the Hearing in May is the examination. That is not so. The examination started on 6 December 2012 when the Council submitted the Local Plan document to the Secretary of State for Communities and Local Government. Much of the examination is carried out by correspondence. The examination continues until I issue my binding report to the Council unless the Local Plan document is first withdrawn. So the examination is now about half way through.
- 2.1 There are several aspects to the examination. One is whether the Local Plan document complies with legal and procedural requirements. Another is whether it is sound. Soundness is tested in three ways; is the LPD justified; would it be effective; and, is it compliant with national policy?
- 2.2 There are only three possible outcomes of the Examination. One is that I find the plan sound, without any need for change. That will not be the case here because the Council is itself currently considering some changes to the plan in response to points that I have already put to them.
- 2.3 The second possible outcome is that I change the plan. You may be aware that I may only make a change to a submitted LPD if the Council agrees to my doing so and if that change is itself sound, in accordance with all of the soundness tests including the legal and procedural requirements for consultation and sustainability appraisal. Thus, unless others have previously done the

consultation and sustainability appraisal, the extent of changes that I may make, if needed to make a LPD sound, is very limited.

- 2.4 Failing that, a finding of unsoundness, which is the third possible outcome, is inevitable. That would be very regrettable in view of the time and effort which has been put into the process so far, so is to be avoided if at all possible. If necessary, the examination can be suspended for further work to be undertaken, or terminated by withdrawal of the plan.
- 2.5 From my initial examination of the LPD I have few concerns about compliance with national policy but I have a number of concerns about the LPD's effectiveness and justification. There are also issues about their justification which are raised by representations made. These concerns are set out in the questions which I have sent to the Council and which can be found on the Development Management Policies Submission page of its website <http://www.walthamforest.gov.uk/Pages/ServiceChild/Development-Management-Policies-Submission.aspx> . Any responses made by the Council will also be found there.
- 2.6 In anticipation of the Council's responses, I have grouped my concerns and the representations made by others into themes for discussion in a document entitled Matters and Issues. A copy accompanies this advice note and will also be put on the website in due course. At the present time that is what I expect to be discussed at the Hearing sessions in May, if not resolved in writing before then.
- 2.7 The purpose of this advice note is to explain procedural and administrative matters and also to get participants' reactions to the suggested programme so as to make sure that we have allocated enough time during the hearing sessions to deal with everything.

Role of the Programme Officer

- 3.1 The examination process is designed to be fair to everyone. What that means in practice is that the only person who can speak privately to me is the Programme Officer. Everyone else can only speak to me publicly during the Hearing sessions, so that everyone else can hear publicly what is said to me. Anything that is written to me, Andrea will copy and either distribute to everyone else who might be interested or will publish on the Examination website. That way, there are no private meetings, no deals done behind closed doors.
- 3.2 So, Andrea is key to the smooth running of the examination, since I can only communicate with you via her, and vice versa. She will chase you for any documents that I request. She will make sure that any documents submitted are copied, circulated and published on the website. She will keep in contact with you to make sure you are going to turn up at the relevant hearing session on time. She will alert you to any last minute changes in the timetable. She

keeps the library of examination documents. She assists me with all procedural and administrative matters. Any queries that you have about the Examination or the Hearing sessions themselves should be addressed to Andrea in the first instance.

- 3.3 Andrea's contact details are on the letter which accompanies this advice note.

The agenda for the hearing sessions

- 4.1 When the LPD was originally submitted to the Secretary of State there had been 155 representations from 34 respondents. My own initial appraisal of this has led to 295 questions to the Council and two papers providing general observations. All this material has been analysed and resolved into the draft programme for the hearing sessions which accompanies this note.
- 4.2 Those who have made a specific proposal to change the plan have a right to participate in the hearing sessions. Others may participate by invitation. Others are welcome to attend to listen to the discussion, even if not invited to take part. All sessions are open for the public and the press to observe.
- 4.3 In submitting the LPD the Council also submitted a Schedule of Post Publication Minor Changes. Many of these would appear to satisfy respondents concerns. It would be helpful to Andrea and I if respondents would indicate whether or not this is in fact the case.

The nature of the hearing sessions

- 5.1 Let me explain the nature of the hearing sessions. They are not an examination of the representations made. They are an examination of the LPD. The representations made throw light on to the LPD but it is the soundness of the LPD itself which is the focus of the hearings, not the strength of the objections or representations.
- 5.2 Prior to each hearing session I will issue a statement of what I believe to be the main issues which need to be discussed. The first draft of these statements is available now and accompanies this note. Andrea and I need to know whether you think these would be a reasonable basis for the discussions to take place in May.
- 5.3 In most cases, it will be unnecessary for participants other than the Council to prepare additional material; the material I have seen so far appears clear and comprehensive. If any participant feels the need to prepare a paper for any of the sessions, tell the Programme Officer so that we can make allowance for that in the programme.
- 5.4 If anyone is intending to submit papers, this is the format;
 - If possible, it should be submitted electronically using Microsoft Word

- It should be directed at the subject matter of a particular hearing session
 - It should be no more than 3,000 words; anything longer will be returned. Technical evidence should be submitted as appendices so reference to evidence rather than quoting from it should be possible. Quality of reasoning is more important than length or size of appendices.
 - It should be submitted at least four weeks before the relevant hearing session (i.e. by **22 April**) so that Andrea can copy it to the Council with enough time for them to consider a response.
 - It should say which part of the LPD is unsound and why (i.e which test does it fail?)
 - It should say what change to the LPD will make it sound and why (i.e what is the evidence to underpin the change sought?)
 - It should make it clear whether the change sought has been the subject of any kind of public consultation or sustainability appraisal
- 5.5 For each hearing session, I will ask the Council to prepare a paper
- Directed at the subject matter of each hearing session
 - No more than 3,000 words long
 - Submitted at least two weeks before the relevant hearing session
 - Explaining why the Council considers the LPD sound despite any representations to the contrary and/or explaining why the Council considers the Proposed Amendments will make the LPD sound in response to the issue raised. Reference to evidence rather than quoting from it will be preferred.
- 5.6 I will introduce each hearing session by setting out the order in which I intend to consider the issues. The discussion will focus on those issues. On each issue I will make a brief statement explaining my understanding of the issue based on the material I have seen and then I will invite participants to comment on the issues and questions I have raised. The purpose of the discussion is to help me come to a firm conclusion on the soundness of the LPD. There is no formal presentation of evidence or cross-examination but I will ask participants to identify any questions which they feel would aid me to come to a better understanding of the issues.

Site visits

- 6.1 Because of the nature of this Local Plan document, dealing with Development Management Policies rather than site allocations, I have not so far felt the need to make site visits. If I feel the need arising during the hearing sessions for a site visit to clarify a point, I will make a visit before, during or after the Hearing sessions. This will usually be done unaccompanied unless there is a need to gain

access to private land, in which case an accompanied visit will be arranged through the programme officer.

- 6.2 If anyone anticipates the need for me to visit a site, or to see a site from a particular viewpoint, in order to understand a particular argument, it would be helpful to say so sooner, rather than later.

After the Hearing

- 7.1 The examination remains open until I have submitted my report to the Council but once I have completed the Hearing sessions I will only receive material which I have specifically requested. Any unsolicited material will be returned to the sender.
- 7.2 If, during the course of the examination, it appears to the Council that I am likely to find the LPD unsound, then it may put forward a change or changes to address the issue. As explained earlier, I can only endorse a change to the LPD if that change is itself sound, in accordance with all of the soundness tests including the legal and procedural requirements for consultation and sustainability appraisal. The Council may need extra time before I issue my report for these processes to take place. The timetable for the issue of my report will be announced in the light of these considerations.

Useful documents

- 10.1 National Planning Policy Framework, paragraphs 150 to 185. DCLG March 2012
- 10.2 DCLG Plan Making Manual Website
<http://www.pas.gov.uk/pas/core/page.do?pageId=109798>
- 10.3 A brief guide to examining development plan documents (PINS)
- 10.4 Local Development Frameworks Examining Development Plan documents: Soundness Guidance 2nd edition August 2009 (PINS)