

## **Waltham Forest Local Plan (LP1) 'Shaping the Borough' Examination**

Inspectors - Mrs S Housden BA (Hons) BPI MRTPI &  
Mrs C Jack BSc (Hons) MA MA (TP) MRTPI  
Programme Officer – Ms Andrea Copsey  
[copseyandrea@gmail.com](mailto:copseyandrea@gmail.com)  
07842 643988

Examination Office, PO Box 12607, Clacton-on-Sea, CO15 9GN.

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### **EXAMINATION GUIDANCE NOTE**

#### **IMPORTANT UPDATE – JANUARY 2022**

**The examination hearing sessions for LP1 are postponed while the Council carries out necessary additional notifications. The associated dates and Draft Hearing Programme have changed as a result. The examination hearing sessions will now open on 15 March 2022.**

**Please check the revised Key Dates below, which supersede those in the earlier version of this Guidance Note. All participants should (re)confirm attendance with the Programme Officer - see Participation at the Hearing Sessions below - having regard to the revised Draft Hearing Programme.**

**The Matters, Issues and Questions (MIQs) have been updated with one additional question (No 188 – Policy 80). All the other questions remain unchanged. Anyone who has already sent in a hearing statement in response to the MIQs does not need to submit anything further unless they consider it necessary to do so.**

This note should be read in conjunction with the Matters, Issues and Questions (MIQs) document and the Draft Hearing Programme. References in squared brackets [ ] are to the documents in the Examination Library which can be viewed on the Examination website

<https://www.walthamforest.gov.uk/content/local-plan>

#### **Key Dates**

**24 February 2022** (12 noon) - deadline to confirm with the Programme Officer whether you wish to exercise your right to appear at an examination hearing session.

**24 February 2022** (12 noon)- submission of hearing statements.

**15 March 2022** - Hearing sessions begin.

## **Purpose of the Guidance Note**

1. This note provides guidance to representors on the procedural and administrative arrangements for the Examination. All representors should familiarise themselves with the contents of this note, particularly those wishing to submit further statements and/or take part in the hearing sessions.

## **The Inspectors' role in the Examination**

2. We have been appointed by the Secretary of State to examine the soundness of the plan and whether it meets the requirements of the Planning and Compulsory Purchase Act 2004 and the associated Regulations. The plan being examined is the 'Shaping the Borough Waltham Forest Local Plan (LP1) 2020 -2035, October 2020 (the plan).
3. The National Planning Policy Framework (July 2021) (NPPF) makes clear that, to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy. There are three possible outcomes to the Examination:
  - the submitted plan is sound;
  - the submitted plan is not sound but could be made sound by changes (known as *main modifications*), if necessary following additional work; or
  - the submitted plan is not sound and could not be made sound by changes.
4. Following the close of the hearings we will prepare a report to the Council with our conclusions. Our report will deal with broad issues rather than with individual representations.

## **The Programme Officer**

5. The Programme Officer for the examination is Ms Andrea Copsey. For the purposes of the Examination, she is working under our direction independently of the Council. She can be contacted using the details at the head of this note.
6. The main tasks of the Programme Officer are to act as a channel of communication between all parties and us, to liaise with the parties to ensure the smooth running of the Examination, to ensure that all documents received are recorded and distributed and to run the Examination Library. Copies of supporting evidence documents can be found on the Examination website <https://www.walthamforest.gov.uk/content/local-plan> This is hosted on the Council's website, but its content is controlled by the Inspectors and the Programme Officer.
7. Any participant who does not have access to the internet should contact the

Programme Officer to arrange access to the library. Any procedural questions or other matters that you wish to raise before the hearing sessions should be made through the Programme Officer.

### **Representations on the Plan**

8. The Council has provided a summary of responses to the main issues raised during the Regulation 19 consultation which took place from 26 October to 14 December 2020 in the 'Consultation Statement (Regulation 22)' [KD6.1]. It has also published 'Copies of Representations made under Regulation 20' [KD6.2] and a schedule of representations in order of the plan with a response to the comments made [KD8.1].
9. A full set of the representations made on the plan at the 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.

### **Additional examination documents since plan submission**

10. Other documents that have been added to the examination website since the plan was submitted for examination in response to the Inspectors' Preliminary Matters letter are as follows:

Inspectors' Preliminary Matters letter June 2021 [LPE0]

Natural England Response to the Updated Habitats Regulations Assessment 16 July 2021 [LPE1]

Duty to Cooperate Addendum August 2021 [LPE2]

Statements of Common Ground August 2021 [LPE3]

Habitats Regulations Assessment Topic Paper August 2021 [LPE4]

Schedule of Proposed Changes to the Published Plan [LPE5]

Green Belt August 2021 [LPE6]

General Matters August 2021 [LPE7]

Waltham Forest Employment Land Audit April 2021 [LPE8]

Housing Position Statement September 2021 [LPE9]

Housing Trajectory Summary [LPE10]

Transport Topic Paper [LPE11]

Cultural Infrastructure Study [LPE12]

Consultation Report Addendum [LPE17]

## Arrangements for the Hearing Sessions

11. The Examination hearing sessions will take place on:

**15 – 17 March, 22 – 24 March, and 28 March 2022**

- . The hearing sessions will be held virtually using Microsoft Teams. These notes include the details relating to participation in the virtual hearing sessions and how interested parties can view the proceedings.
12. The **draft hearing programme** available with this note sets out the draft timetable and the matters to be discussed at the hearing sessions and includes some reserve dates in case of any over running of the programme. However, the duration and timing of the sessions may be subject to change and you are advised to check the latest programme on the Examination website.

## Participation at the Hearing Sessions

13. Only those seeking to change the plan have a right to appear before and be heard by the Inspectors at the hearing sessions.<sup>1</sup> However, the hearing sessions will be live streamed and made available via the Council's website for anyone to view.
14. If you have a right to be heard and you wish to exercise that right, you should contact the Programme Officer by 12 noon on **24 February 2022** indicating which sessions in the draft hearings programme you wish to participate in. You must do this regardless of what you may have indicated in your original representations. Please note that if you do not contact the Programme Officer by that date, it will be assumed that you do not wish to appear and you will not be listed as a participant.
15. Before deciding whether to appear, representors should study the Council's responses to the main issues raised in the representations to the plan in the Regulation 20 Consultation Statement<sup>2</sup> and their responses to the Inspectors' Preliminary Matters to note how the Council may have dealt with their concerns.
16. 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 hearings. However, we may invite additional participants to take part in the hearings if their participation would assist us in determining the soundness and legal compliance of the plan.
17. The hearings programme will be finalised as soon as possible after 24 February 2022 and published on the Examination website before the start of the hearings. **Please note that it is for individual participants to check the hearing programme, either on the website or with the Programme Officer, and to ensure that they are present at the right time.** If you are unable to attend a session for which you are listed as a

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<sup>1</sup> S20(6) of the PCPA 2004

<sup>2</sup> Document KD6

participant, please let the Programme Officer know as soon as possible.

18. Written representations carry the same weight as those made at the hearing sessions and we shall have equal regard to views put at the hearings or in writing. Attendance at a hearing session will only be useful and helpful to us if you wish to participate in the discussion.

### **Participating in a Virtual Hearing**

19. The aim is to make the virtual hearing as similar as possible to a physical hearing in the way it is run and the way in which you participate. Only one participant is allowed per representor. However, in view of their position in covering the whole plan sometimes more Council representatives may take part in a hearing session.
20. At the start of each hearing session, we will take appearances in the usual way. We will lead the hearing, in the format of a structured discussion. We will introduce each topic and ask specific questions about the topic. If you wish to respond to a question, please use the 'raise hand' facility in Microsoft Teams.
21. We will give each person who has raised their hand an opportunity to have their say, inviting participants to speak in turn. Although all participants may be able to see each other, only one participant may speak at a time. All participants should have their video turned on but remain on mute until invited to speak. When you are invited to speak unmute your microphone, and state your name and, if any, your organisation if it is your first time speaking during the session. A further guidance note will be issued to participants attending the hearing sessions.
22. The Matters, Issues and Questions will form the basis of the discussion at the hearing sessions and should be the basis on which any further written statements are prepared. The hearings will take the form of a roundtable discussion which we shall lead. They will not involve the formal presentation of cases by participants or cross-examination. Each matter will be the subject of separate discussion, although the discussion on some matters may take place over more than one hearing session. We shall take account of all the written representations already submitted and it is not the purpose of the hearings for these to be repeated.
23. Apart from 15 March 2022 **when the session will start at 10am**, the hearing sessions will normally run between 09:30 and 13:00 and 14:00 and 17:00 each day. A break will be taken mid-morning and mid-afternoon. On occasion, there may be a need for flexibility to finish particular sessions. Please let the Programme Officer know as soon as possible if you have any specific needs in relation to attendance and participation at the hearing sessions.

### **Privacy**

24. The hearing sessions will be conducted in line with the Council's data protection policies and processes as set out here: [Planning Policy Privacy](#)

## [Notice](#)

25. Please have regard to this and the privacy notice for the Examination hearing sessions included in the link. You can turn your camera off if you do not wish your image to be viewed during the virtual hearing sessions.
25. Please do not make your own recording of the hearing sessions. You must ensure that no-one else appears on your camera unless it has been otherwise agreed, and you should clear your background of personal information. If you prefer, Microsoft Teams allows you to blur your background, but please do not use any of the other backgrounds that are available on Microsoft Teams. You must also not share any personal information during the hearing, either yours, or anyone else's.

## Hearing statements

26. The Council should produce a hearing statement for each of the Main Matters listed in the Matters, Issues and Questions. We would strongly encourage concise answers and where appropriate questions can be answered by providing references to specific parts of the evidence base, or to the documents that the Council has provided in response to the Inspectors' preliminary matters.
27. Other representors who have a right to participate in the hearings can also submit further statements, but **only on the questions of relevance to their original representation**. However, **it is not a requirement to do so** and if you wish to rely on your original representations made at the Regulation 19 stage please confirm this with the Programme Officer.

**PLEASE NOTE – If you submitted a hearing statement by the earlier deadline of 12 January 2022, there is no need to submit any additional material unless you consider it necessary to do so.**

28. As outlined in paragraph 10 above, a number of documents have been published since the plan was submitted for examination, in response to the Preliminary Matters letter and you may wish to refer to these when responding to the Matters, Issues and Questions. In addition, if the Council considers that the matter is adequately addressed in its responses to our Preliminary Matters letter [LPE0] or the documents provided in response then there is no need to repeat the answers given.
29. Hearing statements should be a maximum of 3000 words for each Main Matter. Within this limit, they should be kept as short as possible. **Appendices should not be submitted**. In addition, you should ensure the following:
  - submit a separate statement for each main matter being addressed;
  - only answer the specific questions which are of relevance to your original representation made at the Regulation 19 stage;
  - clearly identify the number(s) of the question(s) being answered;
  - state whether any of the Council's proposed main modifications would resolve any concerns and make the plan sound;

- indicate whether any other changes are needed to make the plan sound (providing detailed suggested wording for the change and if appropriate, any changes sought to the Policies Map)
- the name of the representor and a cross reference to the original response are included, this should be by representation number which is available from the Programme Officer.

30. **An electronic version of each hearing statement should be submitted to the Programme Officer by 12 noon on 24 February 2022.** If you wish to submit paper versions, please contact the Programme Officer to make the necessary arrangements. Unless there are exceptional circumstances, late submissions will not be accepted.

**PLEASE NOTE – If you submitted a hearing statement by the earlier deadline of 12 January 2022, there is no need to submit any additional material unless you consider it necessary to do so.**

31. Hearing statements will be posted on the Examination website, 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. However, anyone who is unable to access them on the website should contact the Programme Officer to make alternative arrangements for viewing.
32. Aside from these hearing statements no other written evidence will be accepted, unless we specifically request it. The hearing sessions should not be used to introduce new evidence or arguments.

### **Changes to the plan**

33. The starting point is that the Council has submitted a plan which it considers to be sound and ready for Examination. At this stage there are only two means by which changes can be made to the submitted plan:
- (1) main modifications recommended by the Inspectors;
  - (2) additional modifications made by the Council on adoption.
34. However, we can only recommend main modifications if they are necessary to resolve problems that would otherwise make the submitted plan unsound or not legally compliant.<sup>3</sup> Main modifications are changes which, either alone or in combination with others, would materially alter the plan or its policies. Any potential main modifications must be subject to consultation and further Sustainability Appraisal and assessment under the Habitats Regulations might also be needed.
35. 'Additional modifications' are those changes which would not materially affect the policies in the plan<sup>4</sup>. They are made by the Council on adoption and are also sometimes referred to as 'minor modifications.' They are likely

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<sup>3</sup> Under section 20(7B) & (7C) of the planning and Compulsory Purchase Act 2004

<sup>4</sup> S23(3)(b) of the PCPA 2004 "... if the additional modifications (taken together) do not materially affect the policies ..."

to include corrections of typographical errors, factual updating and consequential changes. The Council is accountable for any such changes and they do not fall within the scope of the Examination.<sup>5</sup>

36. The Council has proposed some modifications to the plan in the 'Schedule of Proposed Changes to the Published Plan [KD2] and has formally requested us to recommend main modifications that may be necessary to rectify matters of soundness or legal compliance. However, it is important to note that the basis for the Examination is the submitted plan not including the suggested changes.

### **Site Visits and Close of the Examination**

37. If we consider it necessary to our assessment of the soundness of the plan, we shall visit sites and areas referred to in the representations before, during, or after the hearings. We will do these on an unaccompanied basis unless there is a need to go onto private land in which case arrangements will be made by the Programme Officer as necessary.
38. The Examination will remain open until our report has been submitted to the Council. However, we will not accept any further representations or evidence after the hearing sessions have ended unless we specifically request it. Late or unsolicited material may be returned.

### **Key Dates**

24 February 2022 (12 noon) - deadline to confirm with the Programme Officer whether you wish to exercise your right to appear at an examination hearing session.

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### **Further Information**

39. Further information about the examination of Local Plans can be found in the Planning Practice Guidance <https://www.gov.uk/guidance/local-plans> and the [Procedure Guide for Local Plan Examinations \(March 2021\)](#).

*Sarah Housden and Catherine Jack*

INSPECTORS

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<sup>5</sup> 5.27 of *Procedural Practice in the Examination of Local Plans June 2016*