

# EXAMINATION OF THE ROCHFORD ALLOCATIONS SUBMISSIONS DOCUMENT (RASD) AND HOCKLEY AREA ACTION PLAN (HAAP)

## GUIDANCE NOTE FROM THE INSPECTOR (updated 26 June 2013 – changes highlighted in yellow)

The hearings regarding the RASD and the HAAP will open on Tuesday 3 September and Tuesday 17 September respectively and will form part of my examination of these Plans. The submitted version of the RASD is dated April 2013 and the submitted HAAP is dated November 2012.

### Pre-Hearing Meeting (PHM) – Wednesday 19 June 2013

1. The PHM is a forum for procedural and administrative points concerning the examination hearings, including their form and content, to be explained and discussed. You may raise any procedural points on which you have queries or concerns but **there will be no discussion of the merits of the matters to be considered at the hearings.**
2. At the PHM I will also ask the Council whether certain legal compliance tests have been met. Following the PHM, notes of the meeting will be sent to all those who have attended or who have indicated a wish to be heard at the hearings.

### Inspector's role

3. My task is to consider the soundness and legal compliance of the Plans, on the basis of the relevant legislation and the guidance in the National Planning Policy Framework (NPPF). Considering soundness involves examining the Plans to determine whether they are:
  - (a) **positively prepared** – based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;
  - (b) **justified** – the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;
  - (c) **effective** – deliverable over its period and based on effective joint working; and
  - (d) **consistent with national policy** – able to achieve sustainable development in accordance with the NPPF's policies.
4. Further details of the examination process are set out in the Planning Inspectorate's booklet *Local Development Frameworks – Examining Development Plan Documents: Procedure Guidance*. See **Annex A** for details of where to find this document and other useful publications and advice.
5. The starting point for the examinations is that the Council have submitted what it considers to be sound plans. Those seeking changes must demonstrate why they are unsound by reference to one or more of the tests of soundness.
6. Unresolved issues concerning soundness or legal compliance will be addressed through round-table discussion at the examination hearings and consideration of the original written representations. It should be emphasised that my role is not to improve the Plans or to make them "more" sound but to determine whether or not they meet the soundness tests. For example, where a non-allocated site is being promoted instead of, or in addition to, the proposed site allocations, I cannot recommend it as a "better" site if the Plan is already sound.

7. As part of this process I sent the Council some initial questions on 17 May 2013 which can be seen on the Examination website. Its responses and further supporting documentation have been received and can also be seen there.
8. After the hearings have closed, I will prepare reports for the Council with my conclusions and recommendations. I will announce their expected arrival dates at the last hearing sessions. If I find the submitted Plans to be legally compliant and sound in all respects, my reports will recommend their adoption. If I find the Plans non-compliant or unsound in any respect, I can recommend modifications to make them compliant and sound. My reports will deal with the main issues concerning the soundness of the Plans, taking into account the representations received. However, it will not deal with each one individually.
9. If modifications are recommended, adequate consultation will need to take place on them where necessary, so that the rights of interested parties are not prejudiced. Where appropriate, modifications may also need to be covered by a revised Sustainability Assessment. The Council may then, if it so wishes, formally adopt the Plans, incorporating the recommended modifications.

### **Programme Officer**

10. Kerry Freeman is the Programme Officer (PO). Although she is employed by the Council in another capacity she is acting as an impartial officer of the Examinations under my direction. She can be contacted on 01702 318073 or by email at: [programme.officer@rochford.gov.uk](mailto:programme.officer@rochford.gov.uk).
11. The main tasks of the PO are to liaise with all parties to ensure the smooth running of the examinations, to organise the hearing programmes, to ensure that all documents received both before and during the hearings are recorded and distributed and to keep the Examination Library. Details of the websites where examination documents are available are given in **Annex A**. The PO can make available electronic or paper copies on request.
12. Any other procedural questions or other matters that you wish to raise with me prior to the hearings should be directed through the PO.

### **Number of representations**

13. In respect of the RASD 459 representations from 293 different respondents were received and 3,298 representations from 849 different respondents were made about the HAAP. The Council have prepared Consultation Statements on the representations including brief responses to the issues raised which are available in the Examination Library and on the Council's website.

### **Progressing your representations**

14. Respondents have already indicated whether their views should be dealt with in written form or whether they feel that they need to come and discuss them orally at a hearing session. Both methods will carry the same weight and I shall have equal regard to views put at a hearing or in writing. Attendance at a hearing session will only be useful and helpful to me if you wish and need to participate in a discussion of one or more issues concerning the Plans' soundness or legal compliance.

15. Those who wish to proceed by written means can rely on what they have already submitted. The right to participate in a hearing extends only to those who propose changes to the Plan in order to make it sound and legally-compliant. **Although anyone can attend the ability to speak is not available to all but is limited to either those with a legal right or those specifically invited.** There is no need for those supporting the Plans or only making comments on it to take part in the hearings, although they may attend as observers. I may, however, invite additional participants to attend the hearings where they are needed to enable the soundness of the plan to be determined.
16. The original representations should have included all the evidence necessary to substantiate them. However, those appearing may submit a hearing statement if they so wish. Any further written evidence in this form should be limited to responding to the issues and questions which I have identified and should not stray beyond the issue(s) to which each original representation refers. There is no need to merely repeat these. However, a concise summary of the main points that you wish to make or the position that you take in response to the issues and questions I have identified would be most useful.
17. Evidence on any new matter which has arisen since the original representations were submitted may be sent to me via the PO – for example, where a new document which forms an addition to the evidence base has been produced.
18. If any person or organisation wishes to change from a written representation to an appearance at a hearing session or vice-versa they should inform the PO by **Friday 9 August 2013**. In the interests of fairness to other participants, no additional request to appear at hearing session(s) will be accepted after this date, unless there are special circumstances justifying it.

### **Hearing sessions**

19. The oral examinations will take the form of a series of hearing sessions based on the issues and questions that I have identified. Preliminary lists of issues and questions and of the hearing timetables and participants have been produced and are available on the Examination websites. Each hearing session will deal with one issue and will consider it, based on my questions, by way of a structured discussion which I will lead. The hearings will not normally involve cross-examination. Those attending may, if they wish, bring professional experts with them. Barristers and solicitors, if present, will be treated as part of the respective team.
20. The purpose of the hearings is to concentrate on the issues that I need to hear further discussion about. They are not an opportunity simply to repeat a case already set out in written representations. The discussion will focus on the issues and questions I have identified, structured around an agenda which will be issued in its final form a week or so before the hearing session. The emphasis will be on testing for soundness. I shall make a few brief comments on the matters I want covered, then invite individuals to make their contribution in response to the points I have raised. All participants will have an equal chance to contribute.
21. I will draw those present into the discussion in such a way as to enable me to gain the information necessary to come to a firm conclusion on the matters and issues before me. There will be no formal presentation of evidence, as I will have read all the relevant representations and statements beforehand, and I will

expect all the other participants to have done so as well. No more evidence can be submitted once the hearing session has closed, except with my agreement.

22. The hearings will be inquisitorial, rather than adversarial. I shall endeavour to progress them in an effective and efficient manner, keeping a tight rein on the discussion and the time taken. In this way I aim to conduct a short, focussed, series of hearings, and produce a short, focussed report.
23. To avoid repetition of the same point by different people I would ask those who have submitted similar representations on the same matter or issue to carefully consider whether your concerns could be dealt with by one or two appointed group spokesperson(s).

### **Hearing timetables**

24. Updates to the hearing timetables, if required, will be available on the Council's websites or in paper form from the PO. **It is the responsibility of individual participants to check the latest timetable for the and to ensure that they are present at the correct time.**
25. The hearings sessions will normally start at 10.00am and 2.00pm each day but these times may vary. Participants and observers should check the Council's website for confirmation of start times. Short breaks will be taken at convenient points in the mid-morning and mid-afternoon and lunch will usually be taken at about 1.00pm.

### **Examination Libraries**

26. The Council has prepared comprehensive lists of Submission Documents, Supporting Documents (Evidence Base) and Examination Documents for the Plans. These are available on the Council's websites. Hard copies of the most relevant documents will be available in the Examination Libraries but given the extensiveness of the Evidence Base it would be advisable to check with the PO if you intend to rely on referring to a specific document during the hearing sessions. As additional Examination Documents are produced they will be added to the Libraries.
27. When submitting hearing statements, participants should not attach copied extracts from Submission Documents, Supporting Documents or Examination Documents. Instead should simply refer clearly to the document number and the relevant paragraph or page that they are relying on. There is also no need to include web links. Regularly-updated lists of Examination Documents, including participants' hearing statements, will be kept on the Council's website, with paper copies available from the PO.

### **Hearing statements**

28. As indicated in paragraph 16 I invite further written statements to be produced for the hearings but they should not simply repeat material already contained in the original representations. Instead, for each issue they should be limited to (i) the issues and questions that I have identified, and (ii) any new matters that have arisen since representations were submitted. Apart from any new issue that arises I will finalise my issues and questions by **Friday 28 June 2013** so any statements should be prepared on that basis. It is therefore advisable to check the website after that date before commencing preparation.

29. Statements should be no longer than is necessary to deal with their subject matter and in any event must contain no more than 3,000 words in respect of each issue. This limit will be strictly applied.
30. All statements should be sent to the PO to arrive by **Friday 16 August 2013**. Statements and other evidence should not be provided after that date or at the hearing sessions. The material that is to be relied upon should be contained in earlier representations or in the hearing statement.

### **Form and content of statements**

31. Annex B sets out the presentational requirements for all statements. Its provisions should be carefully read and followed. Otherwise statements will be returned.
32. Statements from participants should make it clear:
  - Which part of the Plans you consider unsound or legally non-compliant;
  - Which of the soundness criteria or legal requirements you consider it fails to meet;
  - Why it fails - point to the key parts of your original representations or summarise concisely your current position;
  - How the Plans could be made sound or legally-compliant; and
  - The precise change/wording that you are seeking.
33. The Council statements should also address the issues and questions identified even if they are not subject to representations. They should explain why it considers the Plans to be sound or compliant in that particular aspect. Where relevant, why the changes sought by other parties would make it less sound or even unsound, should also be addressed. Responses may be made to the matters raised by the original representations (including from those representors not attending the hearings). Any suggestions for minor editing changes and/or minor changes to the wording of policies or explanatory text should also be included. Because of these additional requirements, the Council's statements are not subject to the 3,000-word limit but they should still be succinct. They should be submitted by the same deadline of **Friday 16 August 2013**.
34. Hearing statements will be posted on the Examination website **after the final 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. However, anyone who is unable to access them on the website may request copies from the PO.

### **Statements of Common Ground**

35. Statements of Common Ground, agreed between two or more hearing participants, will be welcome where they would help to identify points no longer in dispute. This will enable the hearing to concentrate on the key issues that need public discussion. They could, for example, include agreed wording of a suggested change to a policy, agreed factual information or an update on points of disagreement.
36. The completion of any such Statements should be timely to allow them to feed into the relevant hearing statement. At the very latest, any Statements of

Common Ground should be submitted by **Friday 16 August 2013** with the statements to which they are relevant.

### **Site visits**

37. Where necessary, I shall visit sites and areas referred to in the representations and statements before, during, or after the hearings. These visits will generally take place unaccompanied by any other parties, unless I need to arrange access onto private land.

### **Closing the examinations**

38. The examinations will remain open until my report is submitted to the Council. However, no further representations or evidence will be accepted after the hearings sessions have closed, unless I specifically request it. Any late unsolicited material will be returned.

### **Finally**

39. I emphasise:
- that I shall have equal regard to representations made in writing and those made orally at the hearings;
  - that any further statements should focus on my issues and questions and the soundness criteria / legal requirements;
  - the need for succinctness, respecting the 3,000 word limit on any necessary further statements, and the other requirements set out in Annex B; and
  - that you must meet the deadline of **Friday 16 August 2013** for the submission of such statements.

*David Smith*

INSPECTOR

29 May 2013 (updated 26 June 2013)

## **ANNEX A**

### **Sources of relevant documents and advice**

#### **A. The Council's website**

All documents and information for the Plan examinations are available on the Council's website at:

[http://www.rochford.gov.uk/planning/policy/local\\_development\\_framework/allocations\\_development\\_plan-1/allocations-document](http://www.rochford.gov.uk/planning/policy/local_development_framework/allocations_development_plan-1/allocations-document)

[http://www.rochford.gov.uk//planning/policy/local\\_development\\_framework/hockley\\_area\\_action\\_plan/hockley-area-action-plan](http://www.rochford.gov.uk//planning/policy/local_development_framework/hockley_area_action_plan/hockley-area-action-plan)

If you do not have access to the internet, documents and other information can be obtained from the Programme Officer whose details appear on page 2 of this Note.

#### **B. Relevant legislation**

These documents can be searched for and found at: <http://www.opsi.gov.uk>:

*Planning and Compulsory Purchase Act 2004*

*Planning Act 2008*

*Local Democracy, Economic Development and Construction Act 2009*

*Localism Act 2011*

*The Town and Country Planning (Local Development) (England) Regulations 2012*

#### **C. The Plan Making Manual**

The Plan Making Manual was produced by the Department for Communities and Local Government and is available via the Planning Advisory Service website:

<http://www.pas.gov.uk/pas/core/page.do?pageId=109798>

#### **D. Guidance from The Planning Inspectorate**

See: <http://www.planningportal.gov.uk/planning/planningsystem/localplans>, which provides links to the following (although they preceded recent legislative changes and the publication of the National Planning Policy Framework):

*Local Development Frameworks – Examining Development Plan Documents: Procedure Guidance* (2<sup>nd</sup> Edition, August 2009)

*Examining Development Plan Documents: Learning from Experience* (September 2009)

## ANNEX B

### Format for statements

- A. Wherever possible, please email electronic versions of all statements and appendices to the Programme Officer (PO) in Word or PDF format, as well as sending paper copies as described below.
- B. Statements should be succinct, avoiding unnecessary detail and repetition of the original representation. They should address those of the issues and questions defined by the Inspector that are relevant to your original representation.
- C. **No statement relating to a particular issue should be longer than 3,000 words** (or 1,500 words if it relates solely to any new matter as described in paragraph 17 of this Note). Longer statements will be returned by the PO for editing. Statements should be prepared on A4 paper, printed on both sides and not bound, just stapled. Any photographs should be submitted in A4 format and should be annotated (on the back or front).
- D. Please only submit appendices to statements where they are essential. The statement should make it clear why they are relevant. Appendices should have a contents page and be paginated throughout. They should not contain extracts from any publication that is already before the examinations, such as the Submission, Supporting and Examination Documents – a paragraph number or page reference will suffice. The 3,000-word limit does not include the text in appendices, but they should also respect the aim of succinctness.
- E. Anyone submitting a statement should email an electronic copy, and send 4 paper copies of it and of any appendices to the PO (one each for the Inspector, PO, Council and Library).
- F. Any statement or other document submitted in advance of the hearings must be clearly marked, at the top right hand corner, with the appropriate issue/policy number and the name(s) and individual representor number(s) of the representor(s). Where the representor is employing an agent, both names should appear together with the representor number. The Council's Statements should be similarly referenced using RDC and referring to the issue/policy number concerned. **Any documents not so marked will be returned.**
- G. All participants should adhere to the timetable for submitting statements. **Late submissions and additional material are unlikely to be accepted on the day of the relevant session** since this can cause disruption and result in unfairness and could result in an adjournment of the hearing. If material is not received by the deadlines stated below, the PO will assume that you are relying only on the original representations:
  - Last date for notifying a change between written representations and a hearing appearance is **Friday 9 August 2013.**
  - All statements must be received by the PO by **Friday 16 August 2013.**