

EXAMINATION OF THE LONDON SOUTHEND AIRPORT AND ENVIRONS JOINT AREA ACTION PLAN (JAAP)

GUIDANCE NOTE FROM THE INSPECTOR

Purpose

1. This Note is intended to assist those who have made representations as part of the pre-submission consultation process and those who wish to appear in person. It concerns procedural and other aspects of the examination process.

Examination Hearings

2. The examination hearings for the JAAP will take commence at 10.00am on **Tuesday 29 April 2014** at the Civic Centre, Victoria Avenue, Southend on Sea, SS2 6ER and will form part of my examination of this Plan. A hearing programme is being issued at the same time as this Note. The hearings will proceed on the basis of an agenda that I will prepare which will be available shortly in advance and which will follow the relevant issues that I have identified. These are also being produced today.

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 publication *Examining Local Plans: Procedural Practice*. See **Annex A** for details of how to access this document.
5. The starting point for the examinations is that the Councils have submitted what they consider to be a sound plan. Those seeking changes must demonstrate why it is 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 Plan or to make it "more" sound but to determine whether or not it meets the soundness tests as it stands.
7. As part of this process I sent the Councils some initial questions on 12 February 2014 relating to soundness and legal compliance and some further questions on 6 March 2014. These were responded to on 28 February and 21 March 2014.

All these documents can be viewed on the examination website. Details of this are in **Annex A**.

8. After the hearings have closed, I will prepare a report for the Councils with my conclusions and recommendations. I will announce its expected arrival date at the last hearing session. If I find the submitted Plan to be legally compliant and sound in all respects, my report will recommend its adoption. If I find the Plan non-compliant or unsound in any respect, I can recommend modifications to make it compliant and sound. My report 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 Plan, 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 Examination under my direction. She can be contacted on 01702 318073 or by email at: 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 examination, to organise the hearing programme, to ensure that all documents received both before and during the hearings are recorded and distributed as necessary and maintaining the Library of documents. The PO can make available electronic or paper copies of examination documents 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.

Progressing representations

13. The Councils have prepared a Consultation Statement (SUBDOC5) on the representations received at various stages of the process including some brief responses to the issues raised. I have also been provided with a full set of the representations made on the Submission Document of February 2013.
14. Respondents have already indicated whether their views should be dealt with in written form or whether they wish 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 need to participate in a discussion of one or more issues concerning the Plan's soundness or legal compliance. Those who wish to proceed by written means can rely on what they have already submitted.
15. 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. This entitlement extends only to matters covered in the original representation. So 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 Plan 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. It should also not stray beyond the issue(s) which each original representation refers to. 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 useful. Further details about the form of hearing statements are set out below and in **Annex B**. However, I should emphasise that there is no requirement to submit such a statement.
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 **Thursday 17 April 2014**. 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 examination will take the form of a series of hearing sessions based on the issues and questions that I have identified. As previously mentioned these are now available on the Examination website. 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 although this is not necessary. 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. 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 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.

Hearing timetable

23. Updates to the hearing timetable, 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 and to ensure that they are present at the correct time.**
24. The hearings sessions will normally start at 10.00am and 2.00pm each day. Participants and observers should nevertheless check the website for confirmation. 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 Documents

25. 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 Library during the hearings but given the extensiveness of the Evidence Base it would be advisable to check with the PO if you intend to refer to a specific document. As additional Examination Documents are produced they will be added to the Library.
26. When submitting hearing statements, participants should not attach copied extracts from Submission Documents, Supporting Documents or Examination Documents. Instead simply refer clearly to the document number and the relevant paragraph or page that is relied upon. 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

27. As indicated in paragraph 16 any further written statements to be produced for the hearings 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.
28. 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.
29. All statements should be sent to the PO to arrive by **Tuesday 22 April 2014**. 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

30. **Annex B** sets out the presentational requirements for all statements. Its provisions should be carefully read and followed. Otherwise statements will be returned.

31. Statements from participants should make it clear:
- Which part(s) of the Plan 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 Plan could be made sound or legally-compliant; and
 - The precise change/wording that you are seeking.
32. The Councils' statement should also address the issues and questions identified even if they are not subject to representations. They should explain why it considers the Plan to be sound or compliant in that particular aspect. Where relevant, why the changes sought by other parties 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 **Tuesday 22 April 2014**.
33. 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.

Site visit

34. By the time that the hearings start I will have made an unaccompanied visit to Southend Airport and the surrounding area covered by the JAAP. However, I have allocated a day at the end of the hearings for any further visits to be made. I anticipate that these final visits will also take place unaccompanied by any other parties unless I need to arrange access onto private land. If there are particular places or matters that the Councils or representors wish to see then please inform the PO before the hearings commence.

Closing the examination

35. The examination will remain open until my report is submitted to the Councils. 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.

David Smith

INSPECTOR

27 March 2014

ANNEX A

Sources of relevant documents and advice

A. The Council's website

All documents and information for the Plan examination is available on the Council's website at:

http://www.rochford.gov.uk/planning/policy/local_development_framework/development_management_devel-1/development-management-0

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. Guidance from The Planning Inspectorate

See: [Planning Portal - Local Plans](#) which provides a link to the following:

Examining Local Plans: Procedural Practice (December 2013 3rd edition v.1)

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). Pages and paragraphs should be numbered. Sources or references to documents referred to should be included.
- 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 Documents and Evidence Base – 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 and Councils (x2)).
- 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 Councils' Statements should be similarly referenced using SBC/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.
- H. All statements must be received by the PO by **Tuesday 22 April 2014**.