

## **Examination of the New Castle Point Local Plan**

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### **Introduction**

1. My name is Philip Lewis, I am a chartered Town Planner and I was appointed by the Secretary of State for Housing, Communities and Local Government on 26 November 2020 to examine the soundness of the Plan, and whether it meets the requirements of the Planning and Compulsory Purchase Act 2004 (the Act) and associated Regulations. The Plan being examined is the New Castle Point Local Plan Pre-submission Plan December 2019.

### **Purpose of this Guidance Note**

2. This note provides guidance to participants on the procedural and administrative arrangements for my Examination of the New Castle Point Local Plan. Please read and be familiar with this Guidance Note which sets out important details of the organisation and conduct of the Examination. I shall assume that the Guidance Note has been read by participants at the hearing sessions.

### **The Inspector's role in the Examination**

3. The starting point for the Examination is that the Council has 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. These are set out in the National Planning Policy Framework (the Framework) in paragraph 35 which makes clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
4. Further details of the examination process are set out in the [Procedure Guide for Local Plan Examinations](#).
5. My Examination of the Plan commenced with my appointment and to date I have undertaken initial reading of the Plan, the evidence base documents and representations, following which I posed a number of initial questions to the Council. My letter and the Council's response have been published on the Examination website.
6. Unresolved issues concerning soundness or legal compliance may be addressed through consideration of the original written representations and where necessary, following discussion at the Examination hearing sessions. In this regard, please note that the hearings are part of the Examination process, and not the Examination itself. 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 is legally compliant and meets the soundness tests as it

stands. For example, if an alternative version of a policy is put forward, I cannot recommend it as an improvement if the Plan is already sound.

7. Hearings as part of the Examination of the Local Plan will be held in May and June 2021. After the hearings have closed, I will prepare a report for the Council with my conclusions. My report will deal with the main issues concerning the legal compliance and soundness of the Plan, taking into account all the representations received. My report will be concise and will address the Plan's soundness, not the detail of individual representations and objections.
8. Following my initial reading of the Plan, the supporting evidence, the representations and the Council's response to my initial questions, I have identified the following matters and issues for the Examination, and these are as follows:

**Matter 1: Procedural/legal requirements**

Issue: Whether all Statutory and Regulatory requirements have been met?

**Matter 2: The Plan Period**

Issue – Is the Plan period justified and consistent with national policy?

**Matter 3 The Green Belt**

Issue: Is the Green Belt Assessment consistent with national planning policy for Green Belts, is it based upon appropriate criteria and is it adequate and robust? Are the Green Belt policies clear, justified and consistent with national policy and will they be effective?

**Matter 4: Delivering a sufficient supply of homes**

Issue: Is the overall strategy and provision for housing development effective and justified?

**Matter 5: Housing Allocations**

Issue: Are the proposed housing allocations justified, effective and consistent with national policy?

**Matter 6: Economic Strategy and Policies**

Issue: Is the strategy and provision for employment development effective and justified?

**Matter 7 Development Management Policies**

Issue: Are the individual policies clear, justified and consistent with national policy and will they be effective?

9. I shall publish in further documents:

**Main Issues and Questions (MIQs)** for the Examination. These will form the basis of the discussion at the Hearing sessions.

**Draft Examination Hearings Programme** – this will set out the issues to be discussed at the hearing sessions.

### **Programme Officer**

10. Any procedural questions or other matters that you wish to raise with me prior to the hearing sessions should be made through the Programme Officer (the PO) for the examination. The PO is Andrea Copsey who is working under my direction and is independent of the Council. She can be contacted by post at Examination Office, PO Box 12607, Clacton-on-Sea, CO15 9GN; by email, [copseyandrea@gmail.com](mailto:copseyandrea@gmail.com) and by telephone: 07842 643988.
11. The main tasks of the PO are to act as a channel of communication between all parties and myself, 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.
12. Copies of examination documents can be found in the Examination Library on the [Examination webpage](#). Any participant who does not have access to the internet should contact the PO so that alternative arrangements can be put in hand. Additionally, if you have difficulties accessing the Library please contact the PO. The Examination Library is a key resource for the Examination and is updated regularly.

### **Changes to the Plan**

13. The starting point of the Examination is that the Council has submitted a Plan which they consider 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 Inspector
  - (2) *additional modifications* made by the Council on adoption.
14. However, I 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>1</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 in some cases further sustainability appraisal and Habitats Regulations Assessment might also be needed.
15. Additional modifications are those changes which do not materially affect the policies in the Plan<sup>2</sup>. They are made by the Council on adoption and are also sometimes referred to as 'minor modifications.'<sup>3</sup> The Council is accountable for any such changes and they do not fall within the scope of

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<sup>1</sup> Under section 20(7B) & (7C) of the planning and Compulsory Purchase Act 2004

<sup>2</sup> S23(3)(b) of the PCPA 2004 "... if the additional modifications (taken together) do not materially affect the policies ..."

<sup>3</sup> 3.4 of *Procedural Practice in the Examination of Local Plans (June 2016)*

the examination<sup>4</sup>.

16. The Council has formally requested that I recommend modifications to the New Castle Point Local Plan, as may be necessary to ensure legal compliance/soundness.

### **Scope of Examination in respect of Housing and Omission Sites**

17. A number of alternative development sites have been put forward in representations, which are known as 'omission sites'. I will not be considering the merits or otherwise of these sites as part of the examination as they do not form part of the Plan being examined.
18. I shall be testing the soundness of the allocations proposed in the Plan and the process by which they have been selected. If following the hearings, I were to conclude that the Plan is unsound in respect of its allocations for housing sites, then it would be for the Council to consider whether the Plan should be modified, so as to make it sound. In doing so, the Council would need to undertake further consultation on any main modifications proposed. Amongst other things, this would ensure that interested parties who may not previously have been affected by the Plan, but could be affected by the inclusion of omission sites, have the opportunity to make representations.

### **Participation in the Hearing sessions**

19. The hearings will take the form of a focused roundtable discussion which I will lead. Discussion at the hearing sessions will be based on the MIQs. The purpose of the hearings is to concentrate on the issues that I need to hear more about to enable me to gain the information necessary to come to firm conclusions.
20. Only those who have made representations seeking to change the Plan have a right to appear before, and be heard by, the Inspector. 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 Thursday 8 April 2021** indicating the appropriate Matter and the session you wish to attend (see the draft Programme). You need to do this regardless of what you may have indicated on the representation form. **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.** You should only request to be heard at a hearing session if you have made a relevant representation seeking a change to the Plan. However, the hearing sessions are open for anyone to observe online.
21. It is not usual for those supporting the Local Plan to be heard at a hearing session, unless specifically invited by the Inspector. This is because S20 of the Act states that the Council must not submit the plan for examination unless they think it is ready for independent examination. It is therefore for those seeking changes to the Plan to demonstrate why they consider the Plan is unsound and what changes may be necessary to make it sound.
22. The discussion will be structured around an agenda which will be issued in its final form a week or so before specific hearing sessions. This will not be

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<sup>4</sup> 3.4 & 5.27 of *Procedural Practice in the Examination of Local Plans*

as extensive as the MIQs accompanying this note since some of the issues will be capable of being dealt with in writing and I may have received sufficient answers to my questions in the submitted statements so that I do not need to ask further questions at the hearings. **It is important to note that written representations and oral representations carry the same weight**, and I will have equal regard to views put at a hearing or in writing.

23. The emphasis in the hearings will be on testing for soundness. They are not an opportunity simply to repeat a case already set out in written representations. I shall make comments on the matters I want covered, then invite individuals to make their contribution only in response to the points I have raised. All participants will have an equal chance to contribute in the focused sessions.
24. 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. No more evidence can be submitted once the hearing session has closed, except with my agreement.
25. The hearings will be inquisitorial rather than adversarial and will be short and focused with careful control over the discussion and the time taken. I will not permit the repetition of points nor submissions which do not address the questions asked. Those who have submitted similar representations on the same matter or issue should consider whether their concerns can be dealt with by one or two appointed spokespeople. Please discuss this with the PO.
26. The PO will seek the views of representors regarding whether they wish to participate in the Hearings and the draft programme will have regard to the responses received.
27. In normal circumstances, I would now invite written statements in response to my MIQs and set provisional dates for face-to-face hearing sessions. The situation with Coronavirus means that it is not possible to hold such events at present and the timeframe for their resumption is uncertain. Having regard to the [Written Ministerial Statement – Virtual working and planning, Responding to Covid-19 Restrictions](#) (the WMS) and [the Coronavirus \(COVID-19\) - Planning Inspectorate guidance](#) the hearing sessions will be held virtually. Please note that the Government has also amended the Regulations in regards to the availability of consultation documents, [The Town and Country Planning \(Local Planning\) \(England\) \(Coronavirus\) \(Amendment\) Regulations 2020](#).
28. It is my intention that each day there will be three hearing sessions each of around 90 minutes in order to manage screen time. Consequently, the hearing sessions will normally run between 9:30 and 11:00; 11:30 and 13:00 and 14:00 and 15:30 each day. However please check with the actual timings of sessions on the Examination website as they are liable to change and a certain amount of flexibility will be needed to ensure that we keep to the programme. Please let the PO know as soon as possible if you have any specific needs in relation to attendance and participation at the hearings.

## Hearing statements

29. The following provisions should be carefully read and followed. Otherwise statements may be returned.
30. The Council should produce a hearing statement for each of the issues and questions set out in the MIQs.
31. Those who made representations may also submit hearing statements on the MIQs. However, preparing a statement is not a requirement and representors may wish to rely on previous submissions. The original representations should have included all the points and evidence necessary to substantiate them, so there will be no need to submit further material based on the original representations. Any further written evidence shall be limited to responding to the issues and questions which I have identified. It should not merely repeat the representations, stray beyond the issues to which each original representation refers, nor attempt to go beyond the scope of this Examination.
32. To ensure fairness, hearing statements from those who made representations should be a maximum of **3000 words** for **each Matter**. This limit will be strictly applied. Within this limit, they should be kept as short as possible. Appendices should only be included where directly relevant and necessary, and should also be as succinct as possible. Lengthy statements and/or appendices, will be questioned by the PO and might be returned. Please do not submit further statements in the guise of appendices as they are also liable to be returned. In addition, statements should:
  - include page and paragraph numbers
  - **only** answer the specific questions which are of relevance to your representations;
  - clearly identify the number(s) of the question(s) being answered;
  - when referring to documents in the Examination library give the document reference and paragraph number; and
  - indicate whether any other changes are needed to make the Plan sound or legally compliant (providing detailed suggested wording for the change and if appropriate, any changes sought to the Policies Map).
33. The Council should produce statements which are focussed and succinct. However, because they have to answer every question, it may be necessary to go over the 3,000 word limit.
34. Where several people or organisations wish to speak on the same issue, representors should consider producing a single joint paper. Please contact the PO to discuss.
35. In preparing statements you should be aware that the evidence documents in the Examination Library on the Examination webpage are updated through the course of the Examination. In particular, please be aware that the Council has updated a number of evidence documents and provided new documents in responding to my initial questions.
36. Given that the hearings will be held virtually and given current national

Coronavirus measures, it is expected that hearing statement will only be submitted electronically. **All statements must be received by the PO by 5.00 pm on Thursday 8 April 2021.** Given the time being made available for the preparation of statements, unless there are clearly demonstrated exceptional circumstances, late submissions will not be accepted.

37. Hearing statements will be posted on the Examination webpage, 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 online may request copies from the PO.
38. Aside from these hearing statements no other written evidence will be accepted, unless I specifically request it.

### **Statements of Common Ground**

39. Statements of Common Ground, agreed between two or more hearing participants, will be welcome where they would help to identify points not in (or remaining in) dispute, and so enable the hearings to concentrate on the key issues that need further testing to establish whether the plan is sound. They could, for example, include agreed wording of a suggested change to a policy, agreed factual information, or clearly-identified points of disagreement. Statements of Common Ground should ideally be submitted in time to feed into the relevant hearing statements.

### **The Hearing timetable**

40. The hearings are due to open on Tuesday 11 May 2021 at 9.30. In due course draft timed agendas and draft lists of participants will be published separately on the Examination website. Regular updates to the timetable and list will be available on the Examination website. Whilst participants will be sent invites to the virtual hearings, it is the responsibility of individual participants to ensure that they are present at the correct time.

### **Closing the Examination**

41. The Examination will remain open until my report is submitted to the Council. However, no further representations or evidence will be accepted after the Hearings are closed, unless I specifically request it. Any late unsolicited material will be returned.

### **Further information**

42. Further information about the preparation and examination of Local Plans can be found in the National Planning Practice Guidance <http://planningguidance.planningportal.gov.uk/> and in the [Procedure Guide](#).

*Philip Lewis*

INSPECTOR