

## **EXAMINATION OF THE LEICESTERSHIRE MINERALS AND WASTE LOCAL PLAN UP TO 2031**

**Inspectors** : Elizabeth Hill BSc(Hons) BPhil MRTPI

Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

**Programme Officer:** Helen Wilson

Programme Officer, Leicestershire Minerals and Waste Local Plan,  
25 Ashtree Farm Court, Willaston, Cheshire CH64 2XL

**Tel:** 0151 352 3863 **Email:** progofficer@aol.com

### **GUIDANCE NOTE FROM THE INSPECTORS**

#### **Purpose**

1. This Note provides information about the Examination of the Leicester Minerals and Waste Local Plan Up to 2031 (the Plan) and is intended to assist with the efficient running of the Examination. It also assists those who have made representations on the Plan as part of the pre-submission consultation processes and those who wish to appear in person. It concerns procedural and other aspects of the examination process.
2. In accordance with the advice provided in paragraph 214 of the National Planning Policy Framework (July 2018) (the Framework) the policies in the previous Framework (March 2012) will apply for the purposes of the Examination of the Plan.
3. The term "Examination" refers to the whole process during which the Inspectors consider the Plan. It starts with the submission of the draft Plan by Leicestershire County Council (the Council) to the Planning Inspectorate, and ends when the Inspectors Report is formally submitted to the Council. Therefore, the Examination process has already started.
4. Annex A contains a list of publications that provide advice.

#### **Inspector's role**

5. The Inspectors appointed to hold the Examination are Elizabeth Hill BSc(Hons) BPhil MRTPI and Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE. They have four main roles:
  - To consider whether the Plan has been prepared in accordance with the Duty to Co-operate as required by the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011.

- to consider whether the Plan meets the legal requirements of the Planning and Compulsory Purchase Act 2004 as amended, and also whether it meets the requirements of the Town and Country Planning (Local Planning)(England) Regulations 2012;
  - to consider whether the Plan is sound; and
  - to carry out the Examination with the objective of contributing to the achievement of sustainable development as set out in section 39 of the Planning and Compulsory Purchase Act 2004.
6. Unlike the other requirements, there is no scope to remedy any shortcomings with respect to the Duty to Co-operate. If the Duty to Co-operate has not been complied with, the Plan will fail.
  7. If the Inspectors consider that the Plan has shortcomings with respect to legal compliance and/or soundness, the Council may request them to make such modifications (main modifications) to the Plan as are necessary in order to rectify these shortcomings. Main modifications are changes that tend to affect the substance or application of a policy.
  8. The Inspectors will not consider “additional modifications”, such as matters of clarification, factual updating or correction, which do not affect legal compliance or soundness.

### **Soundness**

9. The soundness of the Plan is based upon the four soundness criteria set out National Planning Policy Framework (the Framework) prior to its revision in July 2018 revision, namely that the draft Plan is: Positively prepared, Justified, Effective and Consistent with national policy.
10. Paragraph 182 of the Framework advises on the meaning of each of these criteria as follows:
  - (a) **Positively prepared** - the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
  - (b) **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;

- (c) **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
  - (d) **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies
11. 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.

### **The Examination Process**

12. The starting point for the examination is that Leicestershire County Council has submitted what they consider to be a sound plan. Those seeking changes must demonstrate why the plan is unsound by reference to one or more of the tests of soundness.
13. Unresolved issues concerning soundness or legal compliance may be addressed through discussion at the examination hearings and through consideration of written representations. It should be emphasised that the Inspectors 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. For example, if an alternative version of a policy is put forward the Inspector cannot recommend it as an improvement if the Plan is already sound.
14. The Inspectors have identified Matters for Consideration, Issues on which the soundness of the Plan depends and Questions which the Council will be asked to respond to (MIQ’s). These will be added to the Examination website and are circulated with this note.
15. The Inspectors will aim to work with the Council and the other Examination participants in a positive, proactive, and pragmatic manner. They will examine the soundness of the whole Plan, having regard to the representations submitted, rather than just the objections made. The hearing process is informal with “round table” sessions addressing particular topics, rather than the more formal, traditional way of a public inquiry.
16. After the hearing has closed, the Inspectors will prepare a report for the Council with conclusions and recommendations. The report will deal with broad issues, and not with each individual representation. If the Inspectors find it to be legally compliant and sound in all respects, the report will recommend its adoption. If it is found that the Plan is legally non-compliant or unsound in any respect, the Inspectors can recommend main modifications to make it compliant and sound. The report will deal

with the main issues concerning the soundness of the Plan, taking into account the representations received.

17. If main modifications are proposed by the Council, adequate consultation will need to take place on them where necessary, so that the rights of interested parties are not prejudiced. Where appropriate, main modifications may also need to be covered by a revised Sustainability Assessment and have regard to Habitat Regulations. The Council may then, if it so wishes, formally adopt the Plan, incorporating the recommended main modifications.

### **Programme Officer**

18. The Programme Officer (PO) for the Examination is Helen Wilson. For the purposes of the Examination she acts as an impartial officer of the Examination, under the Inspectors direction, and not as an employee of the Council. Helen can be contacted on 0151 352 3863 or by e-mail at [progofficer@aol.com](mailto:progofficer@aol.com)
19. Helen's main tasks are to liaise with all parties to ensure the smooth running of the Examination, to organise the Hearings Programme, and to ensure that all documents received both before and during the Hearings are recorded and distributed. Copies of all the Examination documents, including the representation forms and further written submissions, will be available in the Examination Library. Any other procedural questions or other matters that you wish to raise prior to the hearings should be directed through the PO.

### **Representations**

20. Representations have been received on the published Plan from individuals and organisations (the "representors"). These have been published on the examination website at the following address:  
  
<http://www.hwa.uk.com/projects/leicestershire-minerals-waste-local-plan/>
21. The Inspectors will take account of all written representations as well as those delivered orally. Both have equal weight. Those who simply wish to rely on their previous submissions need take no further action; they can rely on what they have already submitted in writing. 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 and is limited to those policies or matters which were the subject of the original representation. This is one of the differences of the Examination process compared to other planning procedures. There is no need for those supporting the Plan to take part in the hearing. Therefore, if anyone

appearing at the hearing or wants to make a further written submission supporting their position, it should be focussed on the issues identified for the relevant hearing sessions.

22. Whether views are expressed in writing or orally they will carry the same weight and the Inspector shall have equal regard to views expressed by both methods. Attendance at a hearing session will only be useful if you need to participate in a discussion concerning the soundness or legal compliance of the Plan. **Should you wish to participate in any of the hearing sessions, please advise the Programme Officer of your intention to do by the 1st of October 2018.** In doing so you should inform the Programme Officer of the specific session(s) of interest. Those who wish to proceed by written means can rely on what they have already submitted.
23. In some circumstances it may be appropriate for a participant to reach an agreed position with the Council and to set this out in a Statement of Common Ground. Such a Statement might contain the wording for a main modification. Statements should be received by the PO as soon as possible before the hearing.

## **Statements**

24. All written statements, which should be made in response to questions within the MIQ document and should be sent to the PO by **noon on 1<sup>st</sup> October 2018**. This deadline relates to the receipt of paper and electronic copies. Statements should concentrate on responding to the MIQ's of relevance. Representors are also welcome to comment on new evidence which may have arisen since the original representations were submitted as part of their written statements. Statements will be placed on the Examination website.
25. Annex B sets out the requirements for the presentation of all statements. Its provisions should be read and implemented to avoid statements being returned due to non-compliance. Please note the 3,000 word limit, which cannot be exceeded.
26. Essentially, the Inspectors need to know the following from those submitting further written statements:
  - What part of the Plan is unsound.
  - Which soundness criterion it fails.
  - Why it fails (point to the key parts of your original representations).
  - How the Plan can be made sound.

- The precise modification and/or wording that you are seeking.
27. The Council may submit statements on each issue saying why they consider the Plan to be sound in that particular aspect, why any main modifications sought by other participants would make it less sound or unsound, and (where relevant) suggestions for other main modifications.

## **Hearing**

28. The hearings will open at **14.00 hours on Monday 22 October 2018** and will be held at:

**Framland Room  
Leicestershire County Council,  
County Hall,  
Glenfield,  
Leicestershire  
LE3 8RA**

29. The hearings format will provide an informal setting for dealing with issues by way of a discussion led by the Inspector. Those attending may bring with them professional experts, and barristers and solicitors (if present) will be treated as part of their team.
30. The purpose of the hearings is to concentrate on the Inspectors MIQs. The discussion will focus on the Inspectors questions, guided by an agenda, together with any additional points raised by the written statements.
31. Those present will be asked to introduce themselves. The Inspectors may ask the Council to open and outline their position. Participants will then be invited to make their contributions. The hearings will progress with the Inspector drawing those present into the discussion in such a way as to enable him to gain the information necessary to come to a decision on the relevant matters. It is not an opportunity simply to repeat a case already set out in written representations.
32. The discussion will be structured around an agenda which will be issued in its final form shortly before the hearing session. The emphasis will be on testing for soundness. The Inspector will make a few brief comments on the matters they want covered, then invite individuals to make their contribution in response to the points they have raised. All participants will have an equal chance to speak.
33. There will be an opportunity within the discussion to ask questions of the Council where appropriate but there will be no cross-examination. No more evidence should be submitted once the hearing session has closed unless the Inspectors expressly invites or allows it. The Inspector will

conduct a short, focussed series of hearings which, in turn, will lead to a short, focussed report.

### **The Evidence Base (Core Documents) and Examination Library**

34. The Council have prepared a list of the evidence core documents that will be available in the Examination Library. As each written submission is received it will be added to the evidence base, as will any other new evidential documents accepted. These documents may be accessed via the Examination website, which will be regularly updated. The examination website address is:

<http://www.hwa.uk.com/projects/leicestershire-minerals-waste-local-plan/>

### **Site visits**

35. The Inspectors may wish to visit certain sites or areas before, during, or after the hearings. These visits will be unaccompanied, unless access is required.

### **Closing remarks**

36. The Inspectors urge everyone to:
- Make the best use of the remaining time before the start of the hearing sessions to ensure statements are submitted on time.
  - Ensure that the timescales and deadlines are adhered to as otherwise Examination attendance may have to be rearranged or curtailed.
  - Be aware of the Examination documents, the supporting evidence, and any other relevant material produced by the Council.
  - Focus on the "Matters and Issues" document and the Framework soundness criteria.
  - Check website regularly and/or be in contact with the PO.

### **Closing the examination**

37. The examination will remain open until the report is submitted to the Councils. However, no further representations or evidence will be accepted after the respective hearing has closed, unless the Inspectors specifically request it. Any late unsolicited material will be returned.

*Elizabeth Hill and Stephen Normington*

INSPECTORS

## **ANNEX A - List of relevant legislation and guidance**

### **Legislation**

The Planning and Compulsory Purchase Act 2004

The Localism Act 2011

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

The Waste (England and Wales) Regulations 2011

### **Government Policy and Guidance**

National Planning Policy Framework (NPPF) March 2012

Planning Practice Guidance (web-based resource)

### **Guidance from the Planning Inspectorate**

Procedural Practice in the Examination of Local Plans 4th Edition June 2016 can be found at:

<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>

### **Examination and Evidence Base Documents**

The Examination web site can be found at:

<http://www.hwa.uk.com/projects/leicestershire-minerals-waste-local-plan/>

## **ANNEX B - FORMAT FOR STATEMENTS**

1. Please send, where possible, e-mailed electronic versions of all Statements and Appendices to the PO (in Word or PDF format) for the Examination web site **as well as three paper copies** as detailed below.
2. The Inspector emphasises the need for succinct submissions with the avoidance of unnecessary detail and repetition of the original representation.
3. It is the quality of the reasoning that carries weight not the bulk of the documents. There is no need for verbatim quotations from sources of policy guidance. It is vital that the fundamental elements are set out clearly and succinctly – the hearing sessions are not the place for surprise contributions!
4. Statements should not be longer than **3,000 words** for each issue addressed. Statements should be prepared on A4 paper, stapled and hole punched. Any oversized plans or diagrams should be folded to A4 size and listed as Appendices.
5. Supporting material in the form of appendices to statements should be limited to that which is essential. Any appendices should have a contents page and be paginated throughout. Whilst the word limit does not include text in appendices, the aim of succinctness should be respected. Anyone submitting appendices should indicate in their statement which parts they are especially relying upon.
6. **A separate statement should be submitted for each issue covered. Multiple issues should not be combined into a single statement.** Each statement should specifically address questions covered within an individual issue. This will assist distribution, publication and understanding during the Hearing Sessions.
7. All participants must adhere to the timetable for submitting statements. Late submissions and additional material will not be accepted since this can cause disruption and result in unfairness. If material is not received by the stated deadlines, the PO will assume that original representations only are being relied upon.
8. Statements are to be received by the PO by **1<sup>st</sup> October 2018**.
9. **It is stressed that these deadlines refer to the receipt of both electronic and paper copies of statements. It is not sufficient to send an electronic copy by this deadline to be followed by paper copies at a later time.**

10. All paper copies of statements should be addressed to the PO at the following postal address:

Programme Officer,  
Leicestershire Minerals & Waste Local Plan,  
25 Ashtree Farm Court  
Willaston  
Cheshire  
CH64 2XL