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GUIDANCE NOTE FROM THE INSPECTORS

Purpose

1. This note is intended to assist those who have made representations as part of the pre-submission consultation process under Regulation 19 and to the main changes. It concerns procedural and other aspects of the examination process.

Examination Hearings

2. The examination hearings for the Ashford Local Plan will commence at 9.30am on **Wednesday 11 April 2018** in the Council Chamber of the Civic Centre, Tannery Lane, Ashford, Kent, TN23 1PL and will form part of the examination of this Plan. A hearing programme is being issued at the same time as this note. The hearings will take place over several weeks and have had to take account of the availability of the venue. They will proceed on the basis of an agenda which will be available shortly in advance of the event. These will follow the relevant issues and questions we have identified as required. Part 1 of our issues and questions is also being produced today and Part 2 will follow shortly.

Inspectors' role, preliminary matters and the examination process

3. Our task is to consider the soundness and legal compliance of the Local Plan, on the basis of the relevant legislation and the National Planning Policy Framework (NPPF). Considering soundness involves determining whether the Plan is:
 - (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. The NPPF also sets out principles for local plans in paragraph 157 and details about what they should contain in paragraph 154. Additional

guidance is also found in the Planning Practice Guidance on *Local Plans*.

5. We confirm that we will be examining the Submission Local Plan 2030 dated December 2017 (SD01). This comprises a composite version of the Regulation 19 publication of June 2016 together with the Main Changes document of July 2017 and also including subsequent minor amendments. These are recorded separately in a schedule (SD01(a)) but have been added to the Submission Local Plan.
6. The starting point for the examination is that the Council has submitted what it considers to be a sound plan. Those seeking changes to the Plan must demonstrate why it is unsound by reference to one or more of the criteria of soundness. Issues concerning soundness or legal compliance will be addressed by round-table discussion at the examination hearings and consideration of the original written representations. It should be emphasised that our role is not to improve the Plan but to determine whether or not it meets the soundness tests as it stands.
7. In undertaking this role we will be examining the Plan jointly. However, one or other of us will lead the individual hearing sessions although both of us may be present on some occasions.
8. After the hearings have closed, we will prepare a report for the Council with our conclusions and recommendations. This will deal with the main issues concerning the soundness of the Plan, taking into account the representations received. However, it will not deal with each one individually. We will give an indication towards the end of the hearing sessions of the likely date when the report might be received together with any other steps to be taken by the Council.
9. If we find the submitted Local Plan to be legally compliant and sound in all respects, the report will recommend its adoption. If we find the Plan non-compliant or unsound, we can recommend main modifications to make it compliant and sound if the Council has requested that we do so. The Council may then, if it so wishes, formally adopt the Plan, incorporating the main modifications as recommended.
10. 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, proposed main modifications may also need to be covered by a revised Sustainability Assessment.
11. Further details of the examination process are set out in the Planning Inspectorate's publication *Procedural Practice in the Examination of Local Plans*. See **Annex A** for details of how to access this document.

Programme Officer

12. Lynette Duncan is the Programme Officer (PO). She acts as an impartial officer of the examination under our direction and can be contacted on 07855 649904 or lynetteljdassoc@aol.com.

13. 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 and those attending and to oversee the distribution of documents received including those posted on the webpage. If necessary the PO can make available electronic or paper copies of examination documents on request. The webpage is hosted and designed by the Council but the content of the examination documents is controlled by the PO.
14. Any other procedural questions or other matters that you wish to raise prior to the hearings should be directed through the PO.

Progressing representations - general

15. The Council has prepared a Statement of Consultation (SD05) which includes details of the various stages of the process and the steps taken. Parts 2 and 3 deal with the Regulation 19 and Main Changes consultations respectively. They also provide a summary of the main issues raised in the representations and the Council's response.
16. We have been provided with a full set of the representations made and these will all be taken into account. It is worth emphasising that this includes representations made **both** at Regulation 19 stage and in respect of the Main Changes. These representations can be progressed if necessary by submitting a statement for the hearings and/or by appearing at the hearings themselves. All of these methods carry equal weight.

Hearing statements

17. The original representations should have been complete so that it is not necessary to submit a hearing statement. In many cases these will suffice in explaining your views about the soundness of the plan and it will not assist the examination to have more material produced than is actually necessary. However, should representors wish to respond directly to the issues and questions that we have identified then they should do so strictly on that basis. The exception to this is where it is necessary to deal with any new matters that have arisen since representations were first submitted.
18. Any statement should also not stray beyond the issue(s) which each original representation refers to. Neither is there a need for representors to respond to every question raised by us since some are specifically aimed at the Council. There is also no need to repeat representations already made but these could helpfully be drawn attention to by referring to the relevant comment, paragraph or page number. A concise summary of the main points that you wish to make or the position that you take could also be useful. Further details about the form and content of hearing statements are set out below and in **Annex B**.
19. However, we are not inviting statements in relation to the site allocation policies as the original representations should have adequately covered the salient matters. Nevertheless there will be a number of general

questions for the Council to respond to if it wishes.

20. 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.
21. All statements should be sent to the PO to arrive **by noon on Tuesday 27 March for issues covered in Weeks 1-4** of the programme and by **noon on Wednesday 25 April for issues covered in Weeks 5-7**. 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 hearing statements

22. **Annex B** sets out the presentational requirements for all statements. Its provisions should be carefully read and followed. Otherwise statements will be returned.
23. Statements from participants should make it clear:
 - Which part(s) of the Local 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.
24. When submitting hearing statements, participants should not attach copied extracts from the examination documents or previous representations. Instead simply refer clearly to the document number and the relevant paragraph or page that is relied upon.
25. The Council's statements should also address the issues and questions identified although there is no need for every individual question to be answered. It should seek to explain why it considers the Plan to be sound or compliant in that particular respect and comment on changes suggested by other as necessary. If the Council considers that the matter has been adequately covered elsewhere such as in the Housing Topic Paper (SD08) then a reference to the relevant document, paragraph and page should suffice.
26. Any suggestions for minor editing and/or minor changes to the wording of policies or explanatory text should also be included in the Council's statements. If this is the case then a schedule of proposed changes to the Submission Plan should be produced at the same time as the first deadline for hearing statements. By the same date the Council should also provide separate updates in relation to current planning applications for any of the allocated sites. Both of these documents should be reviewed throughout the examination process.

27. The Council's statements are not subject to the 3,000-word limit but they should still be succinct and the principles set out above should be applied. They should be submitted by the same deadlines of noon on **Tuesday 27 March for Weeks 1-4** and **Wednesday 25 April for Weeks 5-7**.
28. Hearing statements will be posted on the examination webpage 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.

Attending the hearings

29. Under section 20(6) of the 2004 Act only those who have made representations seeking to change the plan in order to make it sound and legally-compliant have a right to appear before, and be heard by, the Inspector. This entitlement also 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. In this way the examination process is different to other planning procedures.
30. It is also worth reiterating that written representations carry the same weight as those made orally at a hearing session. Participation is only likely to be useful if you have specific points to contribute having regard to our issues and questions and which will assist us in determining the soundness of the Local Plan. Furthermore, in some hearing sessions others may hold similar views to your own and in that case it will be of assistance if representors were able to get together and be represented by one or two spokespersons. The assessment of soundness does not depend on the numbers speaking and there will be no merit in repeating verbally the views of others.
31. Organisations wishing to appear at the hearing will be expected to be represented by one person only. Others may attend on the day in support but participation will normally be limited to a single representative. Equally the Council should also restrict the numbers appearing on its behalf to those that are essential to deal with a particular topic or matter. The reason for these stipulations is to ensure, as far as possible, that those participating are able to sit around a single table in order to facilitate the discussion.
32. There is no need or right for those supporting the Plan or only making comments on it to take part in the hearings although they may attend as observers. We may, however, invite additional participants to attend the hearings where they are needed to enable the soundness of the plan to be determined.
33. You should only request to be heard at a hearing session if you made a relevant representation seeking a change to the plan. If that is the case

and you wish to appear then you should contact the PO **by noon on Wednesday 21 March for Weeks 1-4** and by **noon on Wednesday 25 April for Weeks 5-7** indicating to her the session(s) you wish to attend based on the published programme and the representation relevant to the hearing session in question. This will allow the PO to guide you as to which session you should or are entitled to attend. You need to do this regardless of what you may have indicated in your original representation. **Please note that if you do not contact the PO by those dates then it will be assumed that you do not wish to appear and be heard and you will not be listed as a participant.** This should also be done in advance in the interests of fairness to other participants and to ensure the effective running of the hearing sessions.

34. Some representations are concerned with what are known as 'omission' sites. These are sites which have been excluded from the Local Plan but which their promoters consider should be included. However, we are examining the plan as submitted for soundness and therefore it is not part of our role to examine the soundness of any alternative sites that have been put forward. Consequently any further statements should focus on the issues and questions we have raised and the discussion at the hearings will take a similar approach.

Statements of Common Ground

35. There is no requirement for Statements of Common Ground (SoCG) between the Council and other public bodies to be produced but experience has shown that they can be useful. For example, they can confirm matters that have been agreed, particularly if they have previously been the subject of soundness or legal compliance objections, or they can also helpfully highlight matters that remain in contention. If they are to be prepared then they should be completed by **Wednesday 21 March** and posted as Hearing Documents so that other representors are aware of their contents before submitting their statements. However, this should not preclude the Council from, if necessary, continuing to engage on outstanding issues with other public bodies and updating any SoCGs as necessary.

Hearing sessions

36. The oral examination will take the form of a series of hearing sessions based on the issues and questions identified. Each hearing session will deal with these by way of a structured discussion which we 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.
37. The purpose of the hearings is to concentrate on the issues that we 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 identified issues and questions. The emphasis will be on testing for soundness. We will make a few brief comments on the matters

to be covered, then invite individuals to make their contribution in response to the points raised.

38. Those present will be drawn into the discussion in such a way as to enable us to gain the information necessary to come to a firm conclusion on the issues of soundness and legal compliance. There will be no formal presentation of evidence, as we will have read all the relevant representations and statements beforehand, and 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 our agreement.
39. The hearings will be inquisitorial, rather than adversarial. We 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 we aim to conduct a focussed series of hearings.

Hearing programme

40. Updates to the hearing programme, if required, will be available on the Council's webpage. **It is the responsibility of individual participants or those wishing to attend to check the latest timetable and to ensure that they are present at the correct time.**
41. The hearings sessions will normally start at 10.00am and 2.00pm each day although some will commence at 9.30am. Participants and observers should therefore check the webpage for confirmation. Short breaks will normally be taken at convenient points in the mid-morning and mid-afternoon and lunch will usually be taken at about 1.00pm.

Documents

42. The Council has produced a comprehensive list of documents in the Evidence Base. These are available on the Local Plan webpage. Hard copies of the most relevant documents will be available during the hearings but it would be advisable to check with the PO if you intend to refer to a specific document on the day. As additional documents are produced for the examination they will be added to the webpage.

Site visits

43. By the start of the hearings we will have made unaccompanied visits to Ashford. If any more visits are required we shall conduct these at the time of the hearings or shortly afterwards. These final visits will also take place unaccompanied by any other party unless it is essential to arrange access onto private land.

Closing the examination

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

David Smith

Steven Lee

INSPECTORS

21 February 2018

ANNEX A

Sources of relevant documents and advice

A. The Council's webpage

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

[Local Plan to 2030](#)

If you do not have access to the internet, documents and other information can be obtained from the Programme Officer whose details appear in the heading 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 Planning) (England) Regulations 2012

The Town and Country Planning (Local Planning) (England) (Amendment)

Regulations 2017

C. Guidance from The Planning Inspectorate

See: [Local Plans - GOV.UK](#) which provides a link to:

Procedural Practice in the Examination of Local Plans (June 2016 4th edition v.1)

ANNEX B

Format for statements

- A. Please email electronic versions of all statements and appendices to the Programme Officer (PO) in Word or PDF format. In addition you should send 2 paper copies of it and of any appendices to Programme Officer, c/o Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent, TN23 1PL.
- B. Statements should be succinct, avoiding unnecessary detail and repetition of the original representation. They can address those of the issues and questions defined by the Inspectors that are relevant to your original representation. Previous representations made should not be attached.
- C. **No statement relating to a particular issue should be longer than 3,000 words.** Longer statements will be returned by the PO for editing. Any photographs should be annotated. Pages and paragraphs should be numbered. Sources or references to documents referred to should be included. Written statements should be prepared on A4 paper, printed on both sides and not bound, just stapled.
- D. Please only submit appendices to statements where they are **essential**. The statement should make it clear why they are relevant. However, if you need to refer to a large document that is not in the Examination Library then it would be preferable for you to contact the PO as it may be easier for it to be added to the Library rather than attached to a statement. Any appendices should have a contents page and be paginated. They **should not** contain extracts from any publication that is already before the examination – 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. Any statement 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) of the individual representor and their representor number(s) as used by the Council. Where the representor is employing an agent, both names should appear together with the representor number. The Council's statements should be referenced to the issue/policy number concerned. **Any documents not so marked will be returned.**
- F. 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.
- G. All statements must be received by the PO by **noon on Tuesday 27 March for Weeks 1-4** and **Wednesday 25 April for Weeks 5-7**.