

**BATH AND NORTH EAST SOMERSET - CORE STRATEGY EXAMINATION**

**INSPECTOR'S GUIDANCE NOTES (Issued before the PHM)**

**1. Introduction**

1.1 These Guidance Notes have been prepared by the Inspector to assist those individuals and organisations who wish to participate further in the Examination. Any questions on the notes can be raised at the Pre Hearing Meeting (PHM).

1.2 Mr Chris Banks is the Programme Officer (PO). He is an independent officer for the Examination under the Inspector's direction. The main tasks of the PO are to liaise with all parties to ensure the smooth running of the Examination, to organise the hearing timetable, to ensure that all documents received are recorded and distributed, and to keep the Examination Library of Core Documents and statements. The PO does not work full time on this Examination (and has commitments to other Examinations) and so will not always be able to respond to questions immediately. Any matters which the Council or participants wish to raise with the Inspector should be addressed to the Programme Officer.

**2. The Inspector's role**

2.1 The Inspector has to determine whether the Core Strategy meets various legal and procedural tests and whether it is **sound**. To be sound, a Core Strategy should be justified, effective and consistent with national policy.

2.2 Following the close of the hearings, the Inspector will prepare a report for the Council. If there is unsoundness which cannot be remedied by changes (because, for example, there is insufficient evidence on which to base a sound change) the Core Strategy would have to be withdrawn or further work undertaken by the Council.

2.3 The Inspector will announce at the last hearing session the expected date the report will be sent to the Council. After receipt of the report, the Council is given a 2 week period for a *fact check* - to highlight any factual errors or to seek further clarification of any reasoning - before the final report is issued. It will be for the Council to make any arrangements for the publication of the report thereafter. The Inspector's report will deal only with the broad issues already identified and will not comment on each individual representation. Many of the Inspectors' questions are derived from concerns set out in the representations.

**3. The Hearings**

3.1 The hearings will start on **Tuesday 17 January at 10 am**. On other mornings the hearings will start at **9.30 am**. The Inspector has identified the main issues which are to be discussed at the hearings. The provisional allocation of issues to specific hearing days is set out in the draft hearing programme, along with those respondents whose representations appear to relate to that issue and who have indicated that they wish to participate at the hearings. The programme is in draft at this stage and will be refined following the PHM. A few parties wish to be heard on topics/policies not encompassed in the main matters. They will be accommodated in short separate hearing sessions on the last day of the hearings, as shown on the programme. Participants should check the progress of the hearings, either on the Council's Examination webpage or with the PO, to ensure that they are present at the appropriate time. Those who wish to observe a particular hearing should also keep up to date with progress of the hearings,

because with the agreement of participants, the timing of hearings may be adjusted during the sessions to make the most efficient use of time.

3.2 A separate hearing session will be held for each of the main issues and sub-issue. The hearings will follow a structured, focussed format with a discussion of the matter led by the Inspector. Most hearings will have a number of participants and all will follow a roundtable format (within the constraints of the accommodation). To make the roundtable format manageable, each respondent can expect to have only one seat at the table. There will be space behind for other members of a respondent's team if needed. The lead spokesperson for a respondent may change during a complex hearing session.

3.3 The purpose of the hearings is to concentrate on the matters that the Inspector needs to explore and clarify, having taken into account all the written material. They are not an opportunity to simply repeat a case already set out in representations. The questions listed under each main issue will form the overall structure for the sessions, but some of the questions may need little further discussion if matters have been adequately clarified in further written statements. The Inspector will prepare a short agenda for each hearing session which will highlight the matters which will be the focus of the discussion. The PO will distribute these to participants a few days before the hearing session and they will be posted on the Council's Examination webpage.

3.4 Before each hearing the Inspector will have read all statements submitted (by the deadline) in response to the questions. Other participants should read such material in so far as they want to participate. (All the statements will be available on the Examination webpage). There will be no formal presentation of evidence. **No new evidence or documents should be submitted at the hearings or afterwards unless specifically requested by the Inspector.**

3.5 The hearings will be inquisitorial, led by the Inspector, rather than adversarial. His aim is to restrict the amount of material to that necessary to come to informed conclusions on the issue of soundness. To keep to the timetable he will need the co-operation of all participants.

**3.6 Only those who have made representations relating to unsoundness relevant to the topic under discussion and who have indicated that they want to participate at a hearing will be allowed to speak. The hearing sessions are open to all to observe, but questions or comments from non-participants will not be allowed. Those who submitted representations in support of the Core Strategy (and are thus not seeking any change) do not have a right to participate in the hearings on that topic.**

3.7 Respondents should have already indicated whether their views should be dealt with in written form or whether they want to discuss them at a hearing session. **Both methods carry the same weight and the Inspector will have equal regard to views put at a hearing or in writing.** Attendance at a hearing session will only be helpful if you wish and need to participate in a discussion on the issue.

**3.8 Please inform the PO if you are listed as a participant, but decide not to attend, if you consider that your representation more closely relates to a different main matter than that for which you are listed, or if you think you have been wrongly omitted from a session** If any party, who had previously indicated that they did not wish to participate in an oral session in relation to their representation, now wishes to do so, they should also inform the PO. Representors should raise all such clarifications and corrections with the PO

by the end of **25 November 2011**. Participation will only be possible if the original representation clearly relates to the matter to be discussed. Clarity about the intended participants is essential for the PO to organise appropriate seating arrangements.

#### **4. Responding to the Matters and Questions**

4.1 The Council should respond to all the questions listed, with a separate statement for each issue and sub-issue.

4.2 All responses should be succinct. There is no need to repeat or restate matters set out in supporting evidence, but it should be clear the extent to which reliance is placed on that supporting evidence with cross references to specific parts of the evidence. On some matters, the Council is invited to include a revised wording for a policy in its response, which can be submitted on a without prejudice basis if necessary. On other matters, further reflection by the Council may prompt suggested changes.

4.3 Respondents may submit a further response to the questions, but this must be limited to those questions directly related to the scope of their original representation. A response to the questions is not necessary if the points have already been adequately covered in the representation. A separate statement for each matter and sub-matter should be submitted. Respondents not participating in the hearings have the same opportunity as participants to respond in writing to the questions, so far as they are relevant to their original representation.

4.4 Those challenging the soundness of the Core Strategy must explain why the DPD is unsound, whether there is a specific change which would make the document sound or whether the unsoundness cannot be remedied and why.

4.5 Some representations seek to advance the merits of particular sites. But the Core Strategy is concerned only with broad strategic locations for development. Some alternative strategic sites put forward by representors would involve a fundamental change to the Council's stated overall intentions/strategy because, for example, they are in the Green Belt. If the Inspector were to find aspects of the plan unsound such that an alternative strategy was considered necessary, he would not seek to impose the solution on the Council by identifying any such specific alternative locations. There is unlikely to be adequate evidence and public engagement to enable such a recommendation of this nature to itself be sound. In such circumstances, the Inspector would need to pass the matter back to the Council for further work or recommend that the plan be withdrawn. Accordingly, any site specific evidence about alternative is relevant only as illustrative of the potential of alternative broad locations/strategy. No further site specific evidence is sought.

4.6 All further statements in response to the Inspector's questions must be received by the PO by **5pm Tuesday 13 December 2011**. Meeting this deadline is essential to allow the Inspector and other participants to prepare thoroughly for the hearing sessions. All statements will be placed on the Council's examination webpage at the same time after the deadline. There is no disadvantage in submitting statements in advance, rather than at the last minute. This would help the PO organise the documents, which is a substantial task.

**4.7 Appendix A sets out the requirements for the presentation of all statements. Its provisions should be carefully implemented as otherwise statements will be returned.**

## **5. Statements of Common Ground**

5.1 Statements of Common Ground (SCG) are invited where these would be helpful in identifying points not in dispute or in clarifying specific points of disagreement, thereby assisting the Inspector in focussing the hearings on the matters that truly need discussion. Parties who intend to raise any technical/numerical matters should discuss the matter with the Council in advance of producing a response statement. The hearing is not the venue for raising for the first time technical/numerical problems. Any differences in data should be highlighted and explained before the hearings.

## **6. Handling possible changes**

6.1 The starting point for the Examination is the Core Strategy as submitted in May 2011. At submission the Council included a **Schedule of Proposed Changes** (CD5/6) which are changes to the document which was published for consultation in December 2010 (CD5/5). Provided these changes are only minor and do not change the meaning or application of a policy, they can be incorporated into the Core Strategy without further consultation. The Inspector's preliminary view was that a number of the changes in CD5/6 were not minor. These have subsequently been included in the Schedule of Significant Changes (CD5/22) published for consultation. Further minor changes have been included in CD5/26. Those truly minor changes included at submission in CD5/5 should now be regarded as embedded in the submission Core Strategy and these minor changes will not be referred to in the Inspector's report.

6.2 The Council may recognise that further changes to the text or wording of a policy are needed. If so, the new wording should be included in the Council's relevant response statement to enable it to be discussed at the hearing. Other possible changes may emerge leading up to and at the hearing sessions. The Inspector may invite discussion of possible changes he drafts or invite the Council to suggest the wording of a possible change following a hearing discussion. Whatever the origin of a possible significant change, it will require appropriate public consultation before the Inspector could consider recommending it in his report.

6.3 Following the hearings, consultation on any possible significant changes will be set out in 2 schedules. Firstly, those that the Council accept or agree are necessary for soundness and secondly any which the Inspector considers are necessary for soundness, but which are not accepted by the Council. If the Inspector's report recommends changes they will distinguished in this way. The Council should be ready to prepare 2 separate schedules of possible significant changes along these lines, in addition to a 3<sup>rd</sup> schedule of all minor changes post submission (expect, of course, any which have been made redundant by other changes).

6.4 Section 112 of the Localism Act 2011 changes the scope for Inspectors to make recommendations. This section will come into effect in January 2012. It is not yet clear whether this section will apply to Examinations already underway. If it does, the handling of changes explained above may need to be amended.

## **7. Core Documents and Examination Library**

7.1 The Council has prepared an initial list of Core Documents (CDs) that is available on the Examination webpage. The PO will send a paper version to anyone who requires it and does not have access to the internet. Most of the

documents are available via links from this list on the Council's Examination webpage or can be viewed at the Council's offices.

7.2 The CDs include national Planning Policy Guidance (PPGs) and Planning Policy Statements (PPSs), the Council's evidence and other documents at submission. Extracts from CDs should not be attached to statements. The statement should make reference to the relevant document using its CD reference and highlighting particular pages/paragraphs. A regularly updated list will be on the Council's website. The Council's CD list is very extensive and includes documents which are not referred to in the Core Strategy, in Topic Papers or other submissions by the Council. The Inspector will not be reading documents which appear to him to be peripheral background material unless the Council or other party makes a specific reference in their statement to such a document and highlights the critical point relied on from the document.

## **8. Site Visits**

8.1 The Inspector will make a familiarisation visit to the main settlements and surroundings prior to the hearings. Similar visits may be made during and after the hearings. Accompanied site visits will be necessary only if essential to see land not visible from public vantage points and where such a visit is essential to determining soundness. Any such visits will be coordinated via the PO during or after the hearings.

**Simon Emerson**  
**Inspector**  
**16 November 2011**

Attached: Appendix.

Appendix A **Format for all response statements**

- A. Please send, where possible, emailed electronic versions of all further statements and appendices to the PO (in Word or PDF format), as well as the paper copies specified below.
- B. Submissions should be succinct, with the avoidance of unnecessary detail and repetition of the original representation. It is the quality of the reasoning that is important. There is no need for verbatim quotations from the DPD or other sources of policy guidance.
- C. At most Examination hearings to date, there has been imposed a maximum limit of **3,000 words** for each statement on a topic. This also applies in this Examination and any submissions longer than this will be returned by the PO for editing. However, the Inspector expects most contributions from respondents to be much shorter than this limit.
- D. All parties should provide 3 paper copies of their response statements (to include one unbound for further copying, one hole-punched for the Inspector's ring binder and stapled in the top left hand corner and the other 1 only stapled). Statements should be prepared on A4 paper.
- E. Supporting material in the form of appendices to statements should be limited to those which are essential and should not contain extracts from any publication that is already before the Examination, such as the Core Documents and nationally available Government guidance. The name of the document, its CD reference and a clear paragraph or page reference is all that is necessary. Any appendices should have a contents page and be paginated. Anyone submitting appendices should indicate in their statement which parts are particularly pertinent and on which they are especially relying. **The Council should ensure that sites/locations/projects/documents and so on are referred to in a consistent way throughout its responses. Any party referring to a site which is included in the SHLAA should include the SHLAA reference number from CD4/H14. Where sites or locations are referred to which have not previously been shown on a plan in the submitted material, please provide a plan.**
- F. No statement/piece of paper will be accepted if it fails to be clearly marked, **at the top right hand corner**, with the appropriate Issue/Sub matter and relevant respondent reference and name. The Council's Response Papers should be separately referenced BNES, followed by the Issue/sub issue (e.g. BNES/Iss 2/Sub Matter: Bath).

If material is not received by the deadline the PO will assume that you are relying only on the original representations. It would be very helpful for parties to submit statements in advance of the deadline.