

Elmbridge Borough Council

Examination of the Local Plan

Guidance Note for people participating in the Examination (Stage 1)

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Introduction

1. This note is intended to assist those who have made representations in relation to the examination of the Elmbridge Local Plan as part of the pre-submission consultation process and those who wish to appear in person. Its purpose is to explain the procedural and administrative matters relating to the examination process.

Inspector and Programme Officer

2. The Plan was submitted to the Secretary of State for independent examination on 10 August 2023. I am the Inspector who has been appointed to carry out the examination.
3. The Programme Officer (PO) for the Examination is Charlotte Glancy. She can be contacted on 07519 628064 or by email at bankssolutionsuk@gmail.com
4. The PO is independent of the Council and works as an impartial officer of the Examination under my direction. The main tasks of the PO are to liaise with all parties to ensure the smooth running of the Examination, to organise the hearings, to ensure that all documents are recorded and distributed as necessary. Any documentation connected with the Examination process should be forwarded to her. Any other procedural questions or other matters that you wish to raise with me prior to the hearings should be directed through the PO.

Examination Hearings

5. The hearings will form part of my Examination of the Elmbridge Local Plan (LP) will proceed on the basis of an agenda that I will prepare shortly in advance of the hearings. I will also produce a provisional timetable which may be subject to change and will be placed on the Examination website.
6. There will be no pre-hearing meeting held. Participants are advised to make use of the Examination website where further information concerning the hearing sessions, timetable and relevant documents can be found. [Examination Webpage](#).

Inspector's role and the Examination process

7. My task is to consider the soundness and legal compliance of the Local Plan, on the basis of the relevant legislation and the guidance contained within paragraph 35 of the National Planning Policy Framework (NPPF). Considering soundness involves examining the Local Plan to determine whether it is:
 - (a) **positively prepared** – provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
 - (b) **justified** – an appropriate strategy taking into account the reasonable alternatives and based on proportionate evidence;

- (c) **effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - (d) **consistent with national policy** –enabling the delivery of sustainable development in accordance with the policies of the Framework and other statements of national policy, where relevant.
8. The starting point for the Examination is that the Council has submitted what it considers to be a sound LP. Those seeking changes must demonstrate why it is unsound by reference to one or more of the tests of soundness. Representations will be considered insofar as they relate to soundness and legal requirements. My report will not refer to individual representations.
9. I will seek to address unresolved issues concerning soundness or legal compliance of the plan through round table discussions at the examination hearings as well as through a consideration of the original written representations. It is important to stress that I would not be able to rectify non-compliance with the duty to co-operate. It should be emphasised that my role is not to improve the LP 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 I cannot recommend it as an improvement if the LP is already sound. It is possible that further work will need to be carried out by the Council. If that is the case, the timetable, when known, will be provided on the examination website.

The Matters and Issues for the Examination

10. I am in the process of identifying a number of Matters, Issues and questions which relate to the soundness of the LP and these will be set out in detail on a separate note. The examination will proceed on the basis of 3 stages. The first stage will deal with legal compliance and the Duty to Cooperate. Subject to the outcome of this stage, I would anticipate moving forward to stage 2 hearing sessions which would cover the spatial strategy, housing need and delivery (including the consideration of reasonable alternatives, site allocations and employment). Stage 3 of the hearing sessions would cover the remainder of the Plan including climate change and the environment and the remaining non strategic policies.
11. I sent the Council some initial questions on 14 September 2023 (ID-001) which can be seen on the Examination website. I have been provided with responses to this letter from the Council dated 28 September 2023 (COUD001) and 10 November 2023 (COUD002). These documents are also available on the Examination website.
12. Participants should be aware that the Council have produced additional documents in connection with the Local Plan examination. These documents can be found here [Post Submission Evidence Base Documents](#) and representors may wish to take account of these documents in preparing any written statements. Where necessary, my matters and issues take account of these additional documents.

Alternative sites

13. The allocations, policies and overall strategy identified by the Local Plan should be appropriate having considered relevant alternatives and should be founded on a robust evidence base.
14. My starting point is that the Council has submitted allocations, policies and an overall strategy which it considers to be sound. I will not look beyond the LP's allocations, policies or strategy unless I conclude otherwise. Part of my task is to examine the soundness of the sites that are allocated for development in the submitted Plan. Those who have submitted representations to the effect that a site is unsound will be able to put their views to me at the relevant hearing session, if they have made a request to do so. The Council will have the opportunity to respond. There is no requirement for me to report on individual alternative sites and if I find the allocations contained within the Local Plan to be sound, individual alternative sites are unlikely to be addressed as part of my report.
15. Should the situation arise that additional site(s) are needed (for example because one or more of the allocated site(s) is found to be unsound), I will look to the Council, in the first instance, to decide which alternative site(s) should be brought forward for Examination.

Representations and written statements

16. Respondents have been asked by the Council whether their views should be dealt with in written form or whether they need to come and put them across at a hearing. **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 concerning the soundness or legal compliance of the Local Plan. Those who wish to proceed by written means can rely on what they have already submitted. There is no need to prepare a further statement if all the points are already covered in the original representation.
17. For those who do choose to provide statements, they should directly address the matters to be identified in the Schedule of Matters and Issues. 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 examination, such as the Submission, Supporting and Examination Documents – a paragraph number or page reference will suffice. Representor's statement should encompass the following:
 - relate solely to the matters raised in their earlier representation
 - explain which particular part of the LP is unsound
 - explain why it is unsound, having regard to the NPPF
 - explain how the LP can be made sound
 - explain the precise change/wording that is being sought
18. From the Council, a written statement in response to **all of the matters**

is required. These should include full and precise references to the evidence base to justify the policy and to demonstrate that the Local Plan is sound. They should also include references to any main modifications the Council considers necessary to make the Local Plan sound and set out the Council's position on changes sought by other parties, where relevant.

19. All statements should be provided to the PO in accordance with the key dates produced at the end of this guidance note. Statements should be limited to no more than 3000 words per matter. They should include the appropriate Matter and Issue number, as well as the name of the representor, at the top of the front page. Unnecessary repetition should be avoided. Representors should also bear in mind that the Council has produced a schedule of proposed changes to the LP (CD009) in light of the representations made. In some cases, these may satisfactorily address the comments or objections made.
20. Electronic copies of any statements and associated appendices (where relevant) should be on A4 paper size. Participants should adhere to the timetable to be published for submitting written statements. **Late submissions and additional papers are unlikely to be accepted on the day of the relevant session**, since this can cause disruption and result in unfairness, and may lead to the hearing being adjourned. In addition, I will not accept any further representations or evidence after the hearing sessions have finished unless specifically requested. Any late or unsolicited material is likely to be returned by the PO.

Statements of Common Ground

21. Further discussion between the Council and representors is strongly encouraged, this should ideally take the form of a Statement of Common Ground. These statements will be welcome where they would help to identify points not in (or remaining in) dispute, and so enable the hearing 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 be submitted in time to feed into the relevant hearing statement. Please advise the PO in connection with the progress of the preparation of such statements.

Site visits

22. Where necessary, I shall visit sites and areas referred to in the representations and statements before, during, or after the hearings. These visits will generally take place unaccompanied by any other parties, unless I need to arrange access to private land.

Participation at hearing sessions

23. Only those who have made representations seeking to change the Local Plan have a right to appear before, and be heard by, the Inspector.¹ However, I must stress that written representations carry the same weight as those made orally at a hearing session. As a result, participation at a hearing session is only necessary if, in the light of the

¹ S20(6) of the Planning and Compulsory Purchase Act 2004

Matters and Issues, you have specific points you wish to contribute.

24. To confirm, people who are able to participate in the forthcoming hearing sessions are those who made representations seeking to change the Local Plan under Regulation 20 (ie when the Council invited representations before submitting the LP for Examination) where their representation relates to a point among the Matters and Issues to the Examination.
25. The right to participate in a hearing extends only to those who propose changes to the LP 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 strictly excludes those who have simply commented on a policy in the LP. 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 Local Plan to take part in the hearing. **Could all those that are seeking a change to the LP and wish to participate in the hearing session(s) please inform the Programme Officer no later than 5.30pm Tuesday 30th January 2024.** If you do not contact the PO by that date it will be assumed that you do not wish to appear to be heard and you will not be listed as a participant. A draft programme and list of participants will be prepared which will be regularly updated and available on the [Examination website](#). The hearing session will be open for anyone to observe.

Hearings Arrangements

26. Given my initial review and the matters raised in evidence, I will be undertaking the Examination hearings in a number of stages.
 - Stage 1 will deal with legal and procedural compliance. This hearing is likely to last for one day (with one day in reserve);
 - Stage 2 will deal with housing need, delivery (including proposed site allocations) and the spatial strategy. These hearings will last approximately 7/9 days (with one day reserve);
 - Stage 3 will deal with the non strategic policies as well as climate change and the environment will last approximately 3/5 days (with one day in reserve).
27. I intend to leave a number of weeks between each stage and I will issue Matters Issues and Questions (MIQs) before each stage. I will ensure that the Examination programme gives the Council and participants adequate time to address matters raised in my MIQs and the submission of statements as necessary. At the end of each stage, I will give the Council clarity as to whether the Examination should move on to the next stage of the hearings.
28. In relation to stage 1 hearings, I will identify a number of MIQs that need to be considered during the hearing session. The hearing session will allow me to explore these MIQs further with the Council and other participants, consider relevant representations made and any additional statements which I request. An agenda for each hearing session will be circulated to participants in advance.
29. The PO will draw up the hearing programme which will reflect the main topics for discussion and invite participants on each date. Please check

the Programme on the Examination website regularly for the full details of times and sessions. **It is the responsibility of participants to keep themselves up to date with the arrangements and programme, including being available at the reserve time indicated on the programme.** Whilst every effort will be made to keep to the draft timetable, late changes may be unavoidable.

30. The first stage of hearing sessions for the Examination will commence at **10.00 am Tuesday 27th February 2024**. Apart from on the first day, the morning sessions will start at 9.30am each day. Afternoon sessions will usually start at 2.00pm. There will be roughly an hour break for lunch and short breaks mid-morning and afternoon. The sessions will usually finish by 5.00pm although they may continue later if necessary. Hearings are proposed to be held on Tuesday, Wednesday and Thursday for each stage of the Examination hearings (when they include multiple days). A few days have been added in reserve to the provisional timetable in case of any overrun.
31. The oral Examination will be based on the MIQs which will be published shortly. The hearings will deal with the individual policies and any issues in turn and will consider them by way of structured discussions which I will lead. The hearings will not normally involve cross-examination. Those attending may, if they wish, bring professional experts with them. Barristers and solicitors, if present, will be treated as part of the respective team.
32. The purpose of the hearings is to concentrate on the matters that I need to hear about. It is not an opportunity simply to repeat a case already set out in written representations. The discussions will be structured around an agenda which will be issued in its final form shortly before each hearing session. 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 speak.
33. Please advise the Programme Officer as soon as possible if you have any specific needs in relation to attendance and participation at the hearing sessions.

Availability of information

34. The PO will maintain the Examination Library online at the Examination website. This contains all of the core documents, copies of the evidence base, associated documents and representations. The library will also include further written statements and related correspondence as it is received. The PO will also maintain a record of all documents submitted.

Closing the Examination and the Inspector's Report

35. After the hearings have closed, I will prepare a report for the Council with my conclusions and recommendations. During the final hearing session, I will explain the next steps in the Examination process including any indication of its likely completion date. If I find the submitted Local Plan to be legally compliant and sound in all respects, my report will

recommend its adoption. If I find the Local Plan non-compliant or unsound in any respect, I can, subject to the Council's formal notification and agreement, recommend main modifications to make it compliant and sound. My report will deal with the main issues concerning the soundness of the Plan, taking into account the representations received.

36. 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. The Council may then, if it so wishes, formally adopt the LP, incorporating the recommended main modifications.
37. 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 close, unless I specifically request it. Any late unsolicited material will be returned.

C Masters

INSPECTOR

KEY DATES STAGE 1 HEARINGS

Week commencing Wednesday 20 th December 2023	Inspector's Matters Issues and Questions to be published Draft Hearings Programme to be published
Tuesday 30 th January 2024	Representors who wish to be heard/attend hearings to contact the Programme Officer
Tuesday 6 th February 2024	Deadline for Hearing Statements to be received by the Programme Officer
Tuesday 13 th February 2024	Hearings programme to be finalised and published
Tuesday 20 th February 2024	Agendas to be published
Tuesday 27 th February 2024	Hearings commence