
**Independent Examination of Shoreham
Harbour Joint Area Action Plan**

Examination Guidance Note

By Anne Napier BA(Hons) MRTPI MIEMA CEnv

Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Date: 3 August 2018

Purpose of the Guidance Note

1. This note provides guidance to participants on the procedural and administrative arrangements for the examination.

Dates for Hearing Sessions

2. The Hearing sessions (which are part of the examination) will start on **Wednesday 19 September 2018** and are currently expected to last for around 2 days. They will be held at The Shoreham Centre, Pond Road, Shoreham-by Sea, BN43 5WU.
3. Two documents are available with this note:
 - **Draft Hearing Timetable** – this sets out the issues to be discussed at each hearing session. Details may change.
 - **Matters, Issues and Questions** for the examination. These will form the basis of the discussion at the Hearing sessions.

The Inspector's role in the examination

4. I have been appointed by the Secretary of State for Housing, Communities and Local Government to examine the soundness of the plan and whether it meets the requirements of the Planning and Compulsory Purchase Act and associated regulations. The plan to be examined is the Shoreham Harbour Joint Area Action Plan, Publication version November 2017.
5. The Joint Area Action Plan (the Plan) has been prepared by the Shoreham Harbour Regeneration Partnership, which has been established between Adur District Council, Brighton and Hove City Council, West Sussex County Council and Shoreham Port Authority. At all times, I will aim to work with the partnership authorities and everyone else involved in the Examination in a positive and pragmatic manner.
6. The National Planning Policy Framework (DCLG, 2012) ('the Framework') https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf, requires that Local Plans are prepared in accordance with the Duty to Cooperate, meet legal and procedural requirements and are 'sound'. As part of the Examination process, I will need to determine whether or not:
 - The Councils have complied with the Duty to Cooperate under Section 33 A of the Planning and Compulsory Purchase Act (as amended);
 - The Plan has been prepared in accordance with the Local Development Scheme and Statement of Community Involvement;
 - The Plan has been subject to adequate Sustainability Appraisal;
 - The requirements of the Habitats and Species Regulations 2010 have been complied with, having regard to relevant national policy and guidance and, if the Plan would have a significant effect on a European site, than an appropriate assessment has been carried out; and
 - Relevant publicity and procedural requirements have been met.

7. The Framework sets out the criteria for determining soundness, namely that 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.
8. There are three possible outcomes to the examination:
 - the submitted plan is sound
 - the submitted plan is not sound but could be made sound by changes (known as *main modifications*), if necessary following additional work
 - the submitted plan is not sound and could not be made sound by changes
9. Following the close of the hearings, I will prepare a report to the Councils with my conclusions. I will deal with broad issues in the report rather than specifically with each individual representation.

Changes to the plan

10. The starting point is that the Councils have submitted a plan which they consider is ready for examination. Those seeking changes must demonstrate why it is unsound by reference to one or more of the tests of soundness.
11. Unresolved issues concerning soundness or legal compliance may be addressed through discussion at the Examination Hearings and through consideration of the original written representations. 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 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.
12. At this stage there are only two means by which changes can be made to the submitted plan:
 - (1) *main modifications* recommended by me; and
 - (2) *additional modifications* made by the Committee on adoption.
13. 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.¹ *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 might also be needed
14. '*Additional Modifications*' are those changes which do not materially affect the policies in the Plan.² They are made by the Councils on adoption and

¹ Under section 20(7B) & (7C) of the Planning and Compulsory Purchase Act 2004

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

are also sometimes referred to as 'minor modifications.' The Councils are accountable for any such changes and they do not fall within the scope of the examination.³

Modifications proposed by the Councils

15. The Councils have published a Schedule of Proposed Modifications to the Plan, dated May 2018 (CSD01-02). This Schedule has not undergone public consultation and may be discussed, where appropriate, at the relevant Hearing sessions. It is possible that Main Modifications may also be proposed and discussed during the hearing sessions.
16. The Schedule also includes proposed Additional Modifications. At my request, the Councils have reviewed a number of these. Having regard to the Councils' response, I consider that some of these proposed changes go beyond what would be considered as 'Additional Modifications'. The references for these more significant modifications are MIN30, MIN61, MIN68, MIN71 and MIN81. Attention is also drawn to the Review of the Additional Modification References provided by the Councils, updating certain references used in tables in the Core Submission Documents CSD05-01 and CSD01-02.

The Programme Officer

17. The Programme Officer ('the PO') for the Examination is Chris Banks. Chris is working under my direction and is independent of the Regeneration Partnership. He can be contacted as follows:

Chris Banks, Programme Officer
Banks Solutions
64 Lavinia Way
East Preston
West Sussex
BN16 1EF

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Email: bankssolutionsuk@gmail.com

18. The main tasks of the PO are to act as a channel of communication between all parties and the Inspector, 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.
19. The PO is also responsible for organising the Hearing sessions. Any procedural questions or other matters that you wish to raise with me prior to the Hearing sessions should be made through the PO.

³ 3.4 & 5.27 of *Procedural Practice in the Examination of Local Plans*

The Examination Library

20. The online Examination Library can be found on the Shoreham Harbour Regeneration pages of the Adur and Worthing Councils website. If you have difficulties accessing the Library please contact the PO.

- Copies of Examination documents can be found at: <https://www.adur-worthing.gov.uk/shoreham-harbour-regeneration/examination-jaap/>
- Copies of the Submission Core Documents can be found at: <https://www.adur-worthing.gov.uk/shoreham-harbour-regeneration/submission-jaap/>

Progressing your representations on the plan

21. Only those seeking to change the plan have a right to participate in the Hearing sessions. There is no need for those supporting the Plan or merely making comments to take part in the Hearings, although they may attend as observers. However, I may invite persons to appear or be heard at the Hearings where I think they are needed to enable the soundness of the plan to be determined.
22. Those who have made representations will by now have indicated whether their views should be dealt with in a written form or whether they feel that they need to come and discuss them orally at a hearing session. 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 wish to participate in the discussion. Those who wish to proceed by written means can rely on the representations that they have already submitted.
23. A **Draft Hearing Timetable** has been prepared to accompany this note, together with the list of **Matters, Issues and Questions** (MIQs), which will form the basis of the discussion at the Hearing sessions. If you have any comments on this list (for example, because you feel there may be a significant omission), you should contact the PO by 17:00 on **17 August 2018**.
24. Notwithstanding any previously indicated wishes concerning attendance, if you wish to participate in one or more Hearing sessions, please confirm this with the PO, by 17:00 on **17 August 2018** at the latest. Having regard to the *Matters, Issues and Questions* to be discussed, please confirm with the PO the session(s) that you wish to attend. Changes to the method of progressing representations will not be accepted after this date. This is in the interests of fairness to other participants and to assist with arrangements at the Hearing itself.
25. Representors should also bear in mind that, as referred to previously, the Councils have produced a Schedule of Proposed Modifications to the Plan, dated May 2018 (CSD01-02), partly in light of representations made to the Publication Draft of the Plan. In some cases this may satisfactorily address the comments or objections made. In addition, the Councils have responded to the representations made in the Plan Consultation Statement (CSD05-01), which may assist representors in understanding the Councils'

position.

26. A final version of the *Hearing Timetable* will be published on the Examination website around two weeks before the start of the Hearings. It will be for individual participants to check the progress of the Hearings, either on the website or with the PO, and to ensure that they are present at the right time.

The Hearing sessions

27. The purpose of the Hearing 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 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. I will make a few brief comments on the matters I want covered, then invite individuals to make their contribution in response to the questions raised. All participants will have an equal chance to contribute.
28. The Hearings will take the form of a roundtable discussion which I shall lead, based on the questions set out in the MIQs. I will draw those present into the discussion in such a way as to enable me to gain the information necessary to come to a firm conclusion on the issues before them. There will be no formal presentation of evidence, as I will have read all the relevant representations beforehand, and will expect all the other participants to have done so as well.
29. There will be a lot to cover and all contributions should be focussed. Where several people or organisations wish to speak on the same issue, you should consider appointing a single spokesperson or persons. Please discuss this with the PO. In order to run efficient sessions, repetition of points at hearings will not be permitted; a good point made ten times does not become a better point.
30. The hearing sessions will normally run between 10:00 and 13:00 and 14:00 and 17:00 each day. A short break will usually be taken mid-morning and mid-afternoon. Please let the PO know as soon as possible if you have any specific needs in relation to attendance and participation at the hearing sessions.

Hearing statements

31. The Councils should produce a hearing statement for each of the matters and issues listed in the *Matters Issues and Questions* and, in doing so, they should answer each of the individual questions. However, if the response to any question can be given by directing me to section(s) of the supporting documents and evidence base, or to the responses previously provided to my *Initial Questions* to the Councils, then it can be dealt with in that way, with a detailed cross reference.
32. Those who made representations may also submit hearing statements on the *Matters Issues and Questions*. However, the preparation of a statement is not a requirement. There is no need to prepare a further statement if all the points are already covered in the original representation. However,

participants should inform the PO if they do not intend to submit further statements, so that it is clear that the original representation will form their views. In preparing statements you should be aware of the Councils' response to my *Initial Questions*, which is available on the examination website.

33. Participants should attempt to reach agreement on factual matters and statistics before the Hearings start and everyone is encouraged to maintain a dialogue with the Councils and other participants in advance of the Hearings. Statements of Common (or Uncommon) Ground are a useful way of narrowing the issues in dispute, thereby assisting the Hearings to concentrate on the key issues that truly need public discussion. They should be submitted whenever they become available, but in accordance with the timetable for further statements if possible. At the very least, they should be submitted by the Friday before the relevant Hearing session to enable pre-discussion consideration and the uploading of the document to the Examination website.
34. Hearing statements from those who made representations should be a maximum of 3000 words for each Matter. 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. Statements should be stapled rather than bound. In addition, they should:
 - **only** answer the specific questions which are of relevance to the original representation
 - clearly identify the number(s) of the question(s) being answered
 - submit a separate statement for each Matter being addressed
 - state whether any of the Councils' *proposed modifications* would resolve the concerns and make the plan sound
 - indicate whether any other changes are needed to make the plan sound (providing detailed suggested wording for the change and, if appropriate, any changes sought to the policies map).
35. The Councils should produce statements which are focussed and succinct. However, because they have to answer every question there may be some occasions where it is necessary to go over the 3000 word limit.
36. 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.
37. Three paper copies and an electronic version of each hearing statement should be submitted to the PO by 17:00 on **Tuesday 4 September 2018**. Unless there are exceptional circumstances it is likely that late submissions will not be accepted.
38. Hearing statements will be posted on the Examination website, 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 webpage may request copies from the PO. It is not necessary to attach extracts of core policy documents to Hearing statements as they are already Examination documents.

39. Aside from these hearing statements no other written evidence will be accepted, unless I specifically request it. The Hearing sessions should not be used to introduce new evidence or arguments.

Site visits and close of the examination

40. If I consider it necessary to my assessment of the soundness of the plan, I will visit sites and areas referred to in the representations before, during, or after the hearings. I will usually do these on an unaccompanied basis unless I need to go onto private land.
41. The Examination will remain open until my report has been submitted to the Councils. However, no further representations or evidence will be accepted after the Hearing sessions have ended unless specifically requested. Late or unsolicited material may be returned.

Consideration of Alternative Sites

42. Part of my task is to examine the soundness of the sites that are allocated for development in the submitted Plan and other policy designations. Those who have submitted representations to the effect that a site allocation or designation policy is unsound will be able to put their views forward at a relevant Hearing session, if they have made a request to do so. The Councils will have an opportunity to respond. Sites that have been put forward for inclusion in the Plan by representors, but which have not been selected for allocation are referred to informally as 'omission sites'. Representors should be aware that it is not part of my role to examine the soundness of the omission sites and, subject to the legal right to be heard (see paragraphs 22-30 above), such sites will not normally be discussed in detail at the Hearing sessions.
43. Instead, should the situation arise that additional site(s) are needed (for example, because one or more of the allocated sites is found to be unsound), I will look to the Councils in the first instance to decide which alternative or additional site(s) should be brought forward for Examination. This process would be subject to consultation and sustainability appraisal, if required. Further Hearing sessions might then be required to test the soundness of any additional site(s) proposed for inclusion in the Plan.

Further information

44. Further information about the preparation and examination of Local Plans can be found in the national *Planning Practice Guidance* <http://planningguidance.communities.gov.uk/> and the Planning Inspectorate's *Procedural Practice in the Examination of Local Plans – June 2016 (4th Edition v.1)* [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/531005/Procedural Practice in the Examination of Local Plans - _final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/531005/Procedural_Practice_in_the_Examination_of_Local_Plans_-_final.pdf)

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