

North Hertfordshire District Council

Examination of the North Hertfordshire Local Plan 2011 - 2031

Guidance note for people participating in the examination: the procedure for the further hearings

August 2020

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Introduction and background

1. I am Simon Berkeley, the Planning Inspector appointed by the Secretary of State for Housing, Communities and Local Government to independently examine the soundness of the North Hertfordshire Local Plan 2011 – 2031 ('the Plan'). I have prepared this guidance note.
2. As you will no doubt be aware, I wrote to the Council on 9 July 2019 and again on 9 August 2019. In these letters I raised some concerns about the Local Plan and parts of the evidence base supporting it. I also raised some additional points and queries for clarification. The Council provided its response to all of the points I raised in November 2019. All of this correspondence and the associated documents are on the examination web-page and have been since December last year.
3. I scheduled further hearing sessions which were to be held in March this year. However, due to the Covid-19 pandemic, those hearings were cancelled.
4. On 29 June 2020 the ONS published 2018-based household projections. I wrote to the Council on 8 July [ED190] seeking its view on whether, among other things, the 2018-based projections represent a 'meaningful change in the housing situation'. The Council's response to my letter and the various questions raised in it is provided in two papers, ED191A and ED191B. These papers represent the Council's updated position on the matters covered, and they have been on the examination web-page since 6 August.
5. The purpose of this note is to confirm that the further hearings have now been re-scheduled to commence on Monday 28 September and will take place 'virtually', and to explain the process involved. This note supplements the main guidance note I prepared for the examination as a whole [ED11] and the guidance note I prepared alongside my Further Matters, Issues and Questions [ED179] issued in January 2020, and should be read in conjunction with both.

The Updated Further Matters, Issues and Questions

6. I issued my Further Matters, Issues and Questions' ('the Further MIQs') [ED180] for the further hearing sessions in January 2020. **I have received and read all of the hearing statements submitted in response to those Further MIQs, and I will take them into account in reaching my conclusions concerning the soundness of the Local Plan.**
7. However, some of the questions in my Further MIQs have now been superseded by the publication of the 2018-based household projections and the Council's response to my letter of 8 July – set out in ED191A and ED191B. In addition, on 21 July this year, the Government published The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. These make changes to the Use Classes Order which come into force on 1 September. This, clearly, is an entirely new issue.
8. These changes in circumstance have necessitated an update to my Further MIQs. I am therefore circulating with this note an update which:
 - a. generally reiterates the questions set out in my previous Further MIQs about the objective assessment of housing need and the housing requirement (Matter 21), so that participants can respond in the light of the altered context and the Council's updated evidence (including in respect of the unmet need for housing in Luton);
 - b. introduces different questions in relation to the supply of land for housing (Matter 22), given the change in circumstances and the Council's updated evidence; and
 - c. introduces a new Matter 29 concerning the changes to the Use Classes Order.
9. The further hearings will cover the matters set out in my updated Further MIQs along with the other unaltered issues set out in my original Further MIQs. I have issued a draft timetable for the further hearings, which is also on the examination webpage.

Written statements

10. As mentioned above, I already have written statements in relation to my original Further MIQs, and I will take these into account. **I am now inviting statements responding to the Updated Further MIQs only** – any material relating to other matters will not be accepted.
11. Your views in relation to the Updated Further MIQs can be taken forward and considered in three ways:
 - a) you can rely on the written comments you have already made; or
 - b) you can if you wish also submit a written statement responding to the updated Further MIQs I have issued alongside this note; and/or
 - c) you can, if you wish and are entitled to do so, participate in the further hearing sessions – I explain this further below.
12. For those who do choose to provide statements, they should directly address the matters I have identified in the Updated Further MIQs.
13. All statements should:
 - a) relate solely to the matters you have raised in your earlier representation/comments
 - b) explain which particular part of the Plan is unsound
 - c) explain why it is unsound, having regard to the 2012 NPPF
 - d) explain how the Plan can be made sound
14. explain the precise change/wording that is being sought **Copies of hearing statements should be sent to the Programme Officer** Statements should be no longer than 3,000 words for each matter. Statements which are excessively long or contain irrelevant or repetitious material may be returned. Any technical evidence should be limited to appendices and should be clearly related to the case being made. Statements should be on A4 paper and stapled. Plans or diagrams should fold down to A4 size.
15. **Electronic and paper copies of all statements must be received by the Programme Officer by 5.00pm Wednesday 16th September at the latest.** If not received by this deadline, the Programme Officer will assume that written statements are not being provided.
16. Participants should adhere to the timetable for submitting written statements. **Late submissions and additional papers will not be accepted on the day of the relevant session.**
17. I will not accept any further representations or evidence after the hearing sessions have finished unless I specifically request it. Any late or unsolicited material is likely to be returned.

Participation at the further hearing sessions

18. **Only those who have made representations seeking to change the Plan have a right to appear before, and be heard by, the Inspector.**¹ It is important to stress that written representations carry the same weight as those made orally at a hearing session. Consequently, participation at the further hearing sessions is only necessary if, in the light of the Further MIQs and the Updated Further MIQs, you have specific points you wish to contribute.
19. People who are able to participate in the forthcoming further hearing sessions are those who:
 - a) made a representation seeking to change the Plan under Regulation 20 (ie when the Council invited representations before submitting the Plan for examination); and/or
 - b) made a representation responding to the Council's consultation (which ran from 3 January to 11 April 2019) about the main modifications and the additional work undertaken by the Council

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

where that representation relates to a specific point that is among the Further MIQs and/or the Updated Further MIQs.

20. Justifying and ‘defending’ the Local Plan is a matter for the Council and people supporting it do not have an automatic right to be heard. However, as a matter of discretion and as it is highly likely to assist me considerably, those who are promoting one of the sites proposed for development in the Local Plan may also participate in the further hearing sessions where the site they are promoting is among those listed for discussion in the Further MIQs/the Updated Further MIQs.
21. **If you previously informed the Programme Officer that you wished to participate in the hearings sessions that were scheduled for March (the postponed hearing sessions), then it will be assumed that you still wish to participate and you will be listed as a participant – there is no need to contact the Programme Officer to confirm your participation.**
22. If you are able to participate in the further hearings but did not previously indicate that you wished to do so but now would wish to, you should contact the Programme Officer **by 5.00pm on Monday 31 August** indicating the Matter and the session you wish to attend (see the draft hearings timetable). **Please note that if you do not contact the Programme Officer by that date it will be assumed that you do not wish to appear and be heard, and you will not be listed as a participant. If you are not listed as a participant, you will not be able to take part in the further hearing sessions.**

The hearing sessions and day to day arrangements

23. The hearing sessions will start on **Monday 28 September at 9.30am**. They will be held ‘virtually’, most likely using the Zoom application. A separate note about the practicalities of this – how to join the hearing sessions virtually etc – will be issued a little closer to the time.
24. Every effort will be made to keep to the draft timetable, but late changes may be unavoidable. Priority will be given to starting the debate on each matter at the appointed time, and it may be necessary to extend the discussion in the afternoon session. The Programme Officer will endeavour to inform the participants of any late changes to the timetable, **but it is the responsibility of the participants to keep themselves up to date with the arrangements and programme. Participants need to be ready to attend on the Reserve time indicated on the programme – this will be used if necessary to complete any unfinished sessions.**
25. Sessions will normally start at 9.00am (except the first day which will start at 9.30am) and 2.00pm each day. A break will be taken for lunch each day, generally at about 1.00pm, and the sessions will finish at about 5.00pm. Other short breaks will also be taken throughout the sessions, as appropriate.
26. Please let the Programme Officer know as soon as possible if you have any specific needs in relation to attendance and participation at the further hearing sessions.

The matters not being explored through the further hearing sessions

27. A number of matters that I raised with the Council in my letters of 9 July and 9 August 2019 are not scheduled for discussion at a further hearing session. My starting point here – as set out in the Planning Inspectorate’s guide ‘*Procedure guide for local plan examinations*’ (June 2019, 5th edition) – is that further hearing sessions will not usually be held unless they are necessary to resolve a fundamental soundness issue, to deal with substantial issues raised in the representations or to ensure fairness. I have reached my decision on which matters will be the subject of a further hearing in the light of this guidance.
28. If you made a representation responding to the Council’s consultation (which ran from 3 January to 11 April 2019) about the main modifications and the additional work undertaken by the Council, I will take it into account in coming to my conclusions about the soundness of the Local Plan – as with all representations. If the Council’s response to my letters of July and August 2019 covers any of the points you raised that are not among those to be discussed at a further hearing, there will be an opportunity for

you to make a final comment in the light of the Council's response.

29. Once the further hearing sessions are completed, there will be one final focussed consultation. This will invite representations on:
- a) the Council's response to my letters of July and August 2019 insofar as it relates to matters not discussed at the further hearing sessions; and
 - b) any main modifications I consider necessary for soundness that have not already been the subject of consultation – including any arising from the further hearing sessions – and the Sustainability Appraisal of those main modifications; and
 - c) any other evidence or work produced by the Council that has not already been the subject of consultation that I consider needs to be consulted on, including the Council's most recent evidence set out in ED191A and ED191B.

I will take all representations received through this consultation into account in coming to my final conclusions about the soundness of the Local Plan.

Site visits

30. I have already visited many of the sites proposed to be allocated for development in the Local Plan. I will complete my site visits later this year, around the time of the further hearings. In general, I will undertake these visits alone.
31. However, some people have indicated that it will not be possible for me to see some sites adequately from public land, and I do not have authority to walk onto private land without permission. Therefore, if you consider that I will need to enter private land in order to view a site sufficiently, or if particular arrangements would need to be made for me – for example, if a locked gate would need to be unlocked – then I ask that you contact my Programme Officer as soon as possible, by **5.00pm on Wednesday 16 September at the latest**, so that the necessary arrangements can be made.

My report

32. Once the final consultation mentioned above has concluded, I will write a report to the Council setting out my conclusions about the legal compliance and soundness of the Local Plan. This will include my recommendations concerning the main modifications I consider necessary to render the submitted plan sound.
33. The examination will remain open until my report has been submitted to the Council. However, as mentioned above, I will not accept any further representations or evidence after the hearing sessions have ended unless I specifically request it. Late or unsolicited material may be returned.

I trust that you find this Guidance Note helpful. If you have any further questions, please contact Mrs St John Howe – she will be happy to assist if at all possible.

Simon Berkeley

Inspector

Reminder of key dates:

- Deadline to confirm with the Programme Officer whether you wish to participate in the further hearings, indicating the matter and the hearing session: **Monday 31 August, 5.00pm**
- Deadlines for submission of statements: **Wednesday 16 September 5.00 pm**
- Deadline for informing the Programme Officer that specific arrangements need to be made for me to be able to view a site adequately: **Wednesday 16 September 5.00p**
- The further hearing sessions open: **Monday 28 September, 9.30am**