

EXAMINATION DOCUMENT

EASTBOURNE EMPLOYMENT LAND LOCAL PLAN EXAMINATION

PROCEDURAL GUIDANCE NOTE FROM THE INSPECTOR

Notes

This guidance is issued in place of a pre-hearing meeting and should be kept for reference throughout the Examination. It should be read in conjunction with the ***Agenda of Matters Issues & Questions*** for each hearing session.

Document References in [*italic square brackets*] are to the Examination Library.

Introductions

1. The ***Inspector*** is ***Robert Mellor BSc DipTRP DipDesBEnv DMS MRTPI MRICS***.
2. The ***Programme Officer*** (PO) is ***Mrs Claire Jones-Hughes***. The PO is an independent officer of the Examination. She is responsible for the organisation and administration of the Examination, keeps the Examination Library and provides a central point of contact for all parties. No one should attempt to contact the Inspector directly. This is in order to protect his impartiality.
3. Details of how to contact the PO are as follows:

Address: Banks Solutions c/o 6 Brading Road, Brighton BN2 3PD

e-mail: bankssolutionsuk@gmail.com

website: <http://www.eastbourne.gov.uk/elp>

Telephone: 01273 381518
07737 786425

Hearings and Venue

4. The Hearings will commence at ***10.00am on Thursday 12 May 2016*** at the ***Hardwick Suite, International Lawn Tennis Centre, Devonshire Park, College Road, Eastbourne, East Sussex, BN21 4JJ***
 - ***Transport:*** The venue is in the town centre of Eastbourne and is 0.5 miles from Eastbourne railway station. There are bus services to the town centre from all parts of the town as well as from nearby towns.
 - ***Parking:*** There is pay and display public parking available on-site.

Starting Point and Purposes of the Examination

5. The basis of the Examination is the submitted **Eastbourne Employment Land Local Plan (EELLP)** as published for consultation as the Revised 'Proposed Submission' (RPS) from 11 December 2015 to 22 January 2016. That document has replaced the Proposed Submission (PS) version of the EELLP that was previously published for consultation between December 2014 and February 2015. However the Council has requested that account be taken of the Representations from the public which were submitted on both documents.
6. A **Schedule of Minor Modifications** to the RPS was published by EBC in February 2016 [Document SD/2]. The 5 minor modifications include updates and corrections to matters of fact.
7. The EELLP has been produced to replace Policy D2 of the adopted Eastbourne Core Strategy (2012) [Document SD/19]. It follows a review of that policy which was recommended in the Inspector's Report on the Core Strategy [Document SD/20]. The EELLP includes a revision of the strategic employment provisions as well as specific site allocations for business employment (Use Classes B1, B2 and B8). It is also relevant to the interpretation and implementation of some of the mixed use site allocations that were included in the Town Centre Local Plan (2013) [Document SD/23].
8. The **Duty to Co-operate** (DTC) on strategic cross-boundary issues vested in the National Planning Policy Framework (the Framework) and legislation¹ must be seen to have been discharged before the Examination can proceed further. Similarly, questions of **Legal Compliance** are to be addressed before matters of soundness are considered.
9. Otherwise the Examination is an independent check on the soundness of the LP. The Framework provides at paragraph 182 that a 'sound' plan is one that is:
 - **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
 - **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
 - **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
 - **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

¹ The Town and Country Planning (Local Planning) (England) Regulations 2012
The Localism Act 2011 Section 112

Scope for Change

10. This is not an examination of the objections to the Plan or to hear suggestions for how a Plan policy that is judged to be sound could be improved or for other policies to be added.
11. It is **not** for the Inspector to seek to improve the LP or make it “more sound”. The Inspector will make recommendations for **Main Modifications** only where necessary to ensure soundness and if requested to do so by EBC².

Consideration of Alternative or ‘Omission’ sites

12. It follows that, whilst Representors promoting sites not allocated in the publication draft LP have a right to be heard, no additional or alternative (‘omission’) site will be recommended for allocation if the LP judged on the evidence to be sound as submitted. The Examination will not concern itself with additional modifications making minor corrections or updates that do not affect soundness.

Representations not Duly Made

13. In the event that questions arise concerning representations not duly made during the two formal consultation periods, these should be directed to EBC to consider in each case whether a late representation should exceptionally be placed before the Examination. The Inspector will only consider late representations if they have first been accepted by EBC.

Evidence and Appearances

14. **‘Representors’** are those who have submitted representations at the formal consultation stages in December 2014-January 2015 or December 2015-January 2016. Some Representors have responded to the question on the representation forms asking whether they wished to appear at the examination hearings. **However if they have not done so, or if they have since changed their minds, they should contact the Programme Officer as soon as possible.**
15. Only those Representors who are seeking a change to the submitted Local Plan (including the schedule of changes) are entitled to appear at the examination as **‘Participants’**. Those who support the Local Plan may not appear unless they are invited to do so either by the Inspector or by EBC (in which latter case they would be appearing as witnesses on behalf of EBC).
16. The Revised Proposed Submission EELLP included amendments by EBC which seek to respond to the representations received during the December 2014-February 2015 consultation. A **Schedule of Changes** is included at Appendix 8 of the **‘Statement of Consultation and Representations.’**[Document SD/9]. Before finally deciding whether to attend the Hearings or whether to rely on each of their original written representations, **Those who made representations at the earlier (Proposed Submission) stage should review the changes to determine whether they are sufficient to allay their concerns.** They may also wish to consider withdrawing their original representation on either a conditional or unconditional basis. In either case they should please advise the Programme Officer as soon as possible.

² under section 20(7C) of the Planning and Compulsory Purchase Act 2004

17. Equal weight will be given to the original written responses as to oral submissions. **Representors seeking a change to the LP therefore need only exercise their right to be heard when they wish to discuss matters with EBC and the Inspector.**

Procedure, Hearings, Issues, Programme

18. **The Hearings will commence at 10.00 am on Thursday 12 May 2016.**
19. The PO will issue a **Programme** of Hearings. However the programme may be subject to change and those participating in the hearings are asked to keep up to date by consulting the website or contacting the Programme Officer.
20. The Inspector is preparing **Matters, Issues and Questions** which will be used as the **Agenda** for the examination hearings. These are expected to be issued in the **week commencing 11 April 2016.**
21. At present there have only been a few requests to appear at the hearings. Moreover there is significant overlap between those representations which concern the strategic issues and those which concern individual site allocations. The intention is therefore to ask those who have so far requested an appearance to appear at round table sessions which will address all matters. This is likely to take 2 days. Additional sessions may also be arranged between the Inspector and EBC to deal with any additional information that has been requested by the Inspector and any draft main modifications before the final closing session.
22. Whilst it is not essential the Inspector will invite the participants in hearing sessions who want to comment on the questions posed in the agendas and which are of relevance to their own previous submissions to submit **written statements** of limited length (not more than 3,000 words for each hearing). The Council may submit a longer statement as it needs to address all of the questions.
23. The **deadlines for return of written statements** from Hearings Participants and any other invited Representors to the Programme Officer before the start of the hearings to which they relate will be **Thursday 28 April 2016.**
24. Written statements on the Matters and Issues from Representors other than the hearings participants should only be submitted if requested by the Inspector and if they relate both to the Representor's original submissions and to relevant questions of the agenda.
25. All statements must be focussed on the defined issues and questions. It is not necessary to respond to questions that are not relevant to the original representations.
26. The Inspector and Participants must have sufficient time to absorb the contents of the statements. Late submission of statements causes difficulties for all parties and only in exceptional circumstances will the Inspector consider rearranging any hearing sessions to accommodate late submissions.
27. The LPA should submit its statements within the same deadline as other participants. The examination process no longer centres on 'responding to all objections'. Like everyone else, the LPA is invited to address the Inspector's Matters and Issues.

However, in some instances the Inspector may decide that there would be advantages in having a response from the LPA to particular statements from Representors and in these circumstances a date for the response will be set.

28. Examination Hearings are inclusive, relatively informal round table sessions where the Inspector will lead a discussion on the matters of soundness he has identified from the representations and the Local Plan evidence base, all as outlined in the Agenda of Matters and Issues for Questions. The Inspector will deal the ***Duty to Co-operate*** and any points of ***Legal Compliance*** immediately after opening the first hearing session. ***Where Representors have raised a matter of soundness not identified by the Inspector but still wish to appear, they may request that a suitable item is added to the agenda.***
29. Only very exceptionally would formal cross-examination be permitted and then only in response to convincing submissions in advance that this is essential to the proper testing of the evidence on a particular point.
30. When invited to take part in a session, Representors on arrival are asked to find their nameplate and take their place at the table. During the discussion, the nameplate can be stood on end to indicate a wish to speak.
31. ***Representors are requested to keep in touch with the PO or the EELLP Examination web page regarding the programme.*** Generally sessions are held on from 10am to 5pm with a break for lunch and short mid-session adjournments.
32. Members of the public not participating in the Hearings may of course attend to observe.

Examination Library

33. The Examination Library contains the document that form the evidence base for the Plan together with existing plans, the NPPF and any other relevant national guidance, committee reports, research reports and any other information likely to be used during the examination.
34. The Library is available for consultation via the EBC website or the PO. An updated Library List will be displayed on the website with links to electronic versions of Examination Documents.

Site Visits

35. The Inspector will visit the Borough to familiarise himself with the area. Where necessary, the Inspector will visit sites referred to in the representations, either before, during or after the hearings, normally unaccompanied, save where access might be required to private land. In that case the PO will arrange a suitable date and time for an accompanied visit.

Inspector's Report and Close of the Examination

36. The Inspector will not complete his Report until he is satisfied that all Representations and other evidence have been taken into account and that he has gathered all the information he requires to form reasoned conclusions on any issue of soundness.

37. In line with established current practice, the Report will be as brief as possible consistent with dealing with all matters of legal compliance and soundness and will not rehearse the individual arguments of Representors. Apart from concluding on whether the Local Plan is legally compliant, the essential focus of the Report will be whether the Local Plan is sound and, if not, what if any Main Modifications would ensure its soundness.
38. The Examination itself will be formally closed on delivery of the Report to EBC.

Robert Mellor

INSPECTOR

23 March 2016