

MEDWAY COUNCIL  
LOCAL DEVELOPMENT FRAMEWORK

CORE STRATEGY  
EXAMINATION

GUIDANCE NOTES FOR  
PARTICIPANTS

*Hearings start:* 1000 hours Wednesday 22nd May 2013

*Hearing sessions venue:* Medway Council  
Gun Wharf  
Dock Road  
Chatham  
Kent  
ME4 4TR

<http://www.medway.gov.uk>

Inspector:  
Programme Officer:

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# MEDWAY COUNCIL LOCAL DEVELOPMENT FRAMEWORK CORE STRATEGY EXAMINATION GUIDANCE NOTES FOR PARTICIPANTS

## 1 Introduction

- 1.1 These Guidance Notes have been prepared to assist those individuals and organisations who wish to be involved in the Examination of Medway Council's Core Strategy. This is a key *Development Plan Document* (DPD) in the Council's new *Local Development Framework* (LDF) produced under the Planning & Compulsory Purchase Act 2004 (as amended). The Core Strategy was formally submitted to the Secretary of State on 7 February 2012 following a six week consultation which ended on 14 October 2011. **All those who wish to be involved in the hearing sessions of the Examination should read these notes. There will be no pre hearing meeting.**

## 2 Inspector and Programme Officer

- 2.1 The Secretary of State has appointed the Inspector, **Miss Laura Graham** BSc MA MRTPI, under Section 20 of the Planning & Compulsory Purchase Act 2004 (as amended), 'the 2004 Act', to hold the Examination into The Medway Plan.
- 2.2 The Programme Officer for the Examination is **Adam Waters**. He is acting as an independent officer for the Examination, under the Inspector's direction. He will be responsible for organising the programme of hearings, maintaining the Examination library, recording and circulating all material received, and assisting the Inspector with procedural and administrative matters. He will advise on any programming and procedural queries. Any matters which the Council or participants wish to raise with the Inspector should be addressed to the Programme Officer. His contact details are as set out on the front cover of these notes.

## 3 Purpose of the Examination

- 3.1 It is important to note that the "Examination" relates to the whole process of examining the plan, from the time of submitting the Core Strategy to the Secretary of State to submitting the Inspector's report to the Council. The hearing sessions of the re-opened Examination will commence at **1000 hours on Wednesday 22<sup>nd</sup> May 2013**. The venue for the Examination will be **Room 9, Council Offices, Gun Wharf, Dock Road, Chatham, Kent, ME4 4TR**.
- 3.2 The Inspector's role is to consider whether the Core Strategy meets the requirements of Section 20(5) (a-c) of the 2004 Act and associated regulations and whether it complies with the requirements set out in the National Planning Policy Framework. These requirements fall into three broad groups: whether the **legal requirements** have been met; whether the Council has complied with the **duty to co-operate**; and whether the plan is sound. **The NPPF states that the** strategy should be positively prepared, justified, effective and consistent with national policy. The Council should rely on evidence collected while preparing the Core Strategy to demonstrate that it meets the requirements of s20(5)(a) – (c). Those seeking main modifications (changes) to the Core Strategy have to demonstrate why the document does meet the requirements and how the suggested changes would address any failure.

- 3.3 The key elements in the process for examining DPDs produced under the LDF system are:
- The starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan;
  - The Inspector has to consider the representations made to the submitted plan;
  - The Inspector is not required to consider each and every point made in every objection or to report on them, but to use the representations as the starting point in considering the examination requirements;
  - The Inspector also has to exercise her duties under Section 39 of the 2004 Act with the objective of contributing to the achievement of sustainable development.
- 3.4 An important element of the system is that the hearing sessions of the Examination are intended to be an inquisitorial process under the Inspector's direction, rather than the previous more adversarial approach of the local plan inquiry. Round table and hearing sessions will address particular topics, selected for discussion from the tests of soundness and the representations made at the submission stage.
- 3.5 Since this Examination relates to a Core Strategy, the discussion will focus on strategic issues, rather than particular sites or proposed developments. It will not normally be appropriate to debate the merits of individual development schemes. However, the soundness of broad spatial elements of the strategy, for example any strategic sites will be examined. Subsequent DPDs or Supplementary Planning documents (SPDs) will deal with more detailed matters.
- 3.6 Similarly, national policies will not be debated, but the Examination will consider the application and implications of such policies, including the National Planning Policy Framework (NPPF), if they directly affect the areas and topics covered by the Core Strategy. Where representations currently rely on former National Planning Policy Statements or Guidance, representors should take into account the implications of the NPPF in their further written statements.
- 3.7 After the Examination has closed, the Inspector will submit her report to the Council with her conclusions on legal compliance and soundness. If at any stage during the examination she considers the Plan is potentially unsound or has elements of legal compliance that have not been met she will ask the Council if it wishes to make a request under section 20(7C) of the 2004 Act for her to put forward any main modifications that are necessary to make the Plan sound and legally compliant. Participants should note that there is no provision for main modification to be requested in relation to the duty to co-operate: the plan either meets or fails the s20(5)(c) requirement as submitted. The Council can make minor changes to the Plan at any time up to its adoption provided that they do not materially affect the provisions of the plan and no other interests, including those of representors, will be prejudiced as a result.
- 3.8 In terms of published documents, all participants should be familiar with:
- *Planning & Compulsory Purchase Act 2004 (as amended) and associated regulations*
- 3.9 Although much of the procedure may be new to some participants, most of the guidance and procedure is set out in the Plan-Making Manual (available by following this link to the Planning Advisory Service website)

<http://www.pas.gov.uk/pas/core/page.do?pageId=109798> and the PINS guidance.

- 3.10 Please note that the PINS guidance documents are currently undergoing revisions to reflect the amendments made to the 2004 Act by the Localism Act 2011. These amendments principally relate to the duty to co-operate and the handling of any changes ('main modifications') that may need to be made to the plan during the examination. Any such changes, where the Inspector considers them necessary, can only be made at the specific request of the Council. If you have any particular procedural questions arising in relation to these issues, these can be directed to the Programme Officer.

#### **4 Pre Hearing Meeting**

- 4.1 There will be no Pre Hearing Meeting (PHM) for this examination but these notes set out the points that would have been raised at such an event. They explain procedural and administrative matters relating to the management of the Examination, include a draft programme for the hearings, identify the main topics to be examined, the running order and participants, the methods of dealing with representations, the timetable for submitting statements, and any other relevant matters. Any questions should be directed to the Programme Officer.

#### **5 Representations on the Core Strategy**

- 5.1 The Council has confirmed that, in total, 619 representations have been received from 76 different respondents within the specified 6-week consultation period.
- 5.2 The Council should not seek to propose any main modifications to the submitted Core Strategy. The amended section 20(7) of the Act provides that main modifications can only be considered where the plan fails in relation to soundness and/or legal compliance and the council decides it wishes the inspector to make recommendation to address the shortcomings. Where the Council ask for main modifications to address any shortcomings, the Inspector will work with the Council to ensure proposed main modifications are supported by evidence, and are subject to the same process of sustainability appraisal, publicity and opportunity to make representations as the submitted plan. Any main modifications should include the precise wording of any amendments to the text and be set out in an Examination document.
- 5.3 Where the Council consider minor changes are necessary, these should not affect the substance of the document, its overall soundness or the submitted sustainability appraisal. These minor changes can be taken forward by the Council on adoption of the plan and need not form part of the examination.

#### **6 Methods of considering representations**

- 6.1 There are two main ways in which representations on the Core Strategy will be considered:
- *Written representations* – based on the original representation, with a response, if necessary, from the Council, and the Inspector may also seek additional information by way of clarification. Most representations will be considered by this method. Written representations are not discussed at the hearings and attendance at the hearing sessions is not necessary;

- *Oral representations* – where representors have indicated that they wish to have an oral hearing, relevant points in the representations will be dealt with at a Hearing Session of the Examination, where the Council and other participants debate the main points on the key issues identified by the Inspector in a structured and informed discussion.

6.2 **Both methods carry the same weight and the Inspector will have equal regard to views put orally or in writing.** Attendance at the hearings will only be helpful if participants wish to contribute to the debate. Only those parties seeking specific changes to the Core Strategy are entitled to attend the hearing sessions of the Examination, and there is no need for those supporting or merely making comments on the plan to attend.

## 7 Procedure at the Hearing Sessions of the Examination

7.1 The hearing sessions of the Examination will commence on **Wednesday 22<sup>nd</sup> May at 1000 hours**. Subsequent sessions, if needed, will normally start at 1000 hours and 1400 hours, with a break for lunch at about 1300 hours, and should finish at about 1700 hours. If convenient, a short break will be taken mid-morning and mid-afternoon.

7.2 The emphasis in the hearing sessions will be on the requirements of s20 (5) (a) – (c) of the 2004 Act (as amended). Providing the requirements of 20(5)(a) legal compliance and 20(5)(c) compliance with the duty to co-operate are met the examination hearing sessions will focus primarily on issues of soundness under s20(5)(b). A separate hearing session of the Examination will be held for each of the main topics identified in the programme. The sessions will normally take the form of a hearing, where the Council and those who wish to be heard discuss the key points around a table. This will provide an informal setting for dealing with the issues, by way of a discussion led by the Inspector. Those attending may bring professional representatives with them and ask questions, but there will be no formal presentation of evidence, cross-Examination or formal submissions. There is no need for participants to have legal representation, and the Council is not, at present, intending to be legally represented at any of the sessions.

7.3 Before the sessions, the Inspector will set out a detailed agenda with the points for discussion on each topic. The discussion will focus on the issues identified in the agenda and the questions posed. The Inspector will begin by making a few brief comments on the matters to be covered, before inviting participants to make their contribution to the debate. The session will progress under the Inspector's guidance, drawing participants into the discussion in such a way as to enable her to gain the information necessary to come to a firm conclusion on the relevant issues. There will be an opportunity to ask questions, and professional representatives can join in the discussion. At the end of each session, participants will have the opportunity to sum-up the main points of their arguments.

7.4 Participants will be circulated with the statements and representations relevant to particular hearing sessions. The hearings will be conducted on the basis that everyone taking part has read the relevant documents, although participants will be able to refer to and elaborate upon relevant points, as necessary.

7.5 The Inspector will endeavour to progress the hearing sessions in an effective and efficient manner, keeping a tight hand on the discussions and time

taken. As part of that process, she will aim to minimise the amount of material that is necessary to come to informed conclusions on the issues.

## **8 Examination Programme**

- 8.1 The hearings part of the Examination is likely to take 1/2 day(s). The Programme Officer will draw up a detailed programme for the hearings which will be published, with the topics for discussion on each date, on the Council's website.
- 8.2 Every effort will be made to keep to the programme, but late changes may be unavoidable. The Programme Officer will 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.

## **9 Preparation and submission of further material**

### **Core documents**

- 9.1 The Council has prepared a list of Core Documents, which will be available in the Examination Library and on the website. The list of Core Documents should represent the Council's full evidence base for the Examination. Further documents may be added as the Examination progresses. Participants should ensure that any documents they intend to refer to are included in the list of Core Documents, and they should arrange for any missing documents to be sent to the Programme Officer both electronically (where possible) and in paper format (four copies will be required).

### **Submission of further written statements and other material**

- 9.2 The representations already made at submission stage should include all the points, documents and evidence to substantiate representors' cases. It should not therefore be necessary to submit any further material based on the original representations. Please note that although representors may have made representations at earlier stages of the plan process, the Inspector only has copies of representations made at the Core Strategy submission stage.
- 9.3 From now on, all written submissions should address the Matters and Issues for Examination to be identified by the Inspector on 12<sup>th</sup> April 2013. Any further written statements must be received by **1700 hours on Friday 3<sup>rd</sup> May 2013**.
- 9.4 The Examination starts from the basis that the Council believes the Core Strategy is ready for examination. Essentially, when submitting further statements from participants, the Inspector needs to know:
  - Which particular part of the Core Strategy is unsound?
  - Which soundness test(s) does it fail?
  - Why does it fail?
  - How can the Core Strategy be made sound?
  - What is the precise modification/wording that is being sought?
- 9.5 From the Council, the Inspector needs a general response to the representations on each main topic and the issues raised, setting out why they consider the Core Strategy to be sound in that respect and why the changes sought by other parties would make it unsound.

- 9.6 Submissions should be succinct, avoiding unnecessary detail and repetition. There is no need for verbatim quotations from the Core Strategy or other sources of policy guidance. Nonetheless, it is vital that the fundamental elements of cases are set out clearly and succinctly, since the hearings are not the place for new points or evidence to be presented for the first time. All statements should focus on the issues identified by the Inspector and on the tests of soundness and demonstrate why the plan is unsound and how it could be made sound. All statements should clearly indicate the policy/paragraph/page of the Core Strategy and the relevant soundness test.
- 9.7 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 Council and other participants in advance of the hearings. Statements of Common Ground can be a useful way of narrowing the issues in dispute, and should be submitted within the timescales set out above. There is no need to prepare a further statement if all the points are already covered in the original representation, but participants should notify the Programme Officer if they do not intend to submit further statements so that the original representation can represent their views.
- 9.8 The Programme Officer will require **3 copies** of all statements. Statements should be no longer than 3,000 words for each matter or issue, either for a hearing session or written representations. Statements which are excessively long or contain irrelevant or repetitious material may be returned. Technical evidence should be limited to appendices, and should be clearly related to the case. Any supporting material should be limited to that which is essential and need not contain extracts from any documents that are already in the Examination library. **There is no need for summary statements.** Statements should be on A4 paper; plans or diagrams should fold down to A4 size. All statements should be marked with the Council's reference number, and should also be submitted in electronic form, if possible.
- 9.9 All participants should adhere to the timetable for submitting further statements. Participants should avoid circulating additional material during the hearings. **Late submissions and additional papers are unlikely to be accepted**, since this can cause disruption and result in unfairness, and can result in an adjournment of the hearing. If material is not received by the deadlines stated, the Programme Officer will assume that no representations are to be made by that participant.

## **10 Availability of information**

- 10.1 The Programme Officer will maintain an Examination Library at the Council's offices. This will contain copies of the Core Strategy and associated documents, all representations, the Core Documents and further representations and statements, as received. The Library will be under the supervision of the Programme Officer, who will assist anyone wishing to see and copy any document.
- 10.2 The Programme Officer will maintain lists of all documents submitted. Lists of documents, the up-to-date Programme for the hearing sessions of the Examination and other relevant material will be on display on the Examination notice board at the venue. Relevant information will also be included on the Council's web site. Anyone who requires assistance or special facilities for disabled persons should contact the Programme Officer beforehand to enable appropriate arrangements to be made.

## **11 Site visit arrangements**

- 11.1 The Inspector will carry out a tour of the Borough to familiarise herself with the area, visiting all the places referred to in the representations on an unaccompanied basis. If there are particular reasons for an accompanied visit, participants should discuss this with the Programme Officer.

## **12 Close of the Examination**

- 12.1 The Examination will remain open until the Inspector's report is submitted to the Council. However, the Inspector will not accept any further representations or evidence after the hearing sessions have finished unless she specifically requests further information. Any late or unsolicited material is likely to be returned.

## **13 Submission of Inspector's Report to the Council**

- 13.1 After the Examination has closed, the Inspector will submit her report with binding recommendations to the Council. The date of submission will largely depend on the content, extent and length of the Examination and the Inspector will confirm the likely date at the end of the hearing sessions of the Examination.