

## **HASTINGS BOROUGH COUNCIL – PLANNING STRATEGY EXAMINATION**

### **NOTES OF THE PRE-HEARING MEETING HELD AT THE STADE HALL, THE STADE, ROCK-A-NORE ROAD, HASTINGS, TN34 3FJ at 2 pm on 13 December 2012**

#### **1. Welcome, Emergency Arrangements and Introductions**

- 1.1 The Inspector welcomed everybody to the Meeting and introduced himself as Richard Hollox, a Chartered Town Planner and Chartered Surveyor and said that he had been appointed by the Secretary of State to carry out an independent examination of the Hastings Planning Strategy which had been prepared by the Hastings Borough Council. He asked the Council's spokesperson to introduce himself and to explain the emergency exit arrangements which applied to this building, and then to introduce his team to the Meeting.
- 1.2 He asked that all had the agenda for this Meeting which had been sent out with the letter from the Programme Officer of 15 November 2012. There was an Attendance List being circulated and he asked that people before signing it should read what it said about the Data Protection Act.
- 1.3 He said that many of those present had by now met and or spoken to the Programme Officer, Ms Lynette Duncan. She was occupied on another Examination today but she would continue to deal with all the procedural, administrative and programming matters relating to the Examination. As explained in her letter of 15 November, she would work directly to him and so, like him, she would be independent of the Hastings Borough Council. Please continue to address all correspondence to her, preferably by e-mail. Similarly, the note-taker at this Meeting, Mrs Lara Bolch, would be an officer for the Examination, and under his direction.
- 1.4 He said that those present may have a copy of the Guidance Note which had been prepared by the Planning Inspectorate. It was supplemented by the Inspector's Guidance Notes (Ref ID/1 dated 15 November 2012) which he had prepared for this particular Examination. Both would be further supplemented by these Notes. These Notes would be sent to everybody who had made representations on the Planning Strategy. A number of people asked questions, during the Question and Answer Session towards the end of this Meeting and these were either addressed at the time or advice given as to actions.
- 1.5 He explained that the Hearings for this Examination were expected to start at 10.00 am on Tuesday 5 February 2013. As set out in his draft Matters, Issues and Questions (ID/3), 7 Matters would be examined, the last one on Thursday 14 February 2013. Six days of Hearings were provisionally planned. They would all take place in the Town Hall, Hastings.

#### **2. Purpose of the Pre-Hearings Meeting**

- 2.1 The purpose of this Meeting was to provide an opportunity to discuss administrative and procedural matters as well as the examination programme and any other relevant concerns. A draft version of a paper listing the Matters, Issues and Questions for examination, together with a draft programme of Hearings, had already been sent to everybody who had made representations. A final version of the MIQs would be circulated with the Notes of this Meeting.

The agenda for each of the Hearings would be the Questions which were set out on the Matters, Issues and Questions document.

### **3. Scope of the Examination and the Inspector's Role**

- 3.1 The Inspector explained that his role was to consider whether the Planning Strategy had been prepared in accordance with the Duty to Co-operate, the legal and procedural requirements and whether it was sound. To be "sound" and thereby in accordance with the National Planning Policy Framework (the Framework) the Planning Strategy must meet the tests of being positively prepared, justified, effective and consistent with national policy. Further details about the Examination process were contained in The Planning Inspectorate's booklet *Examining Development Plan Documents: Procedure Guidance*.
- 3.2 He explained that the starting point was the assumption that the Council had submitted what it considered to be a sound plan. He was not seeking to "improve" the Planning Strategy or make it "more sound". The Council should rely on evidence that it had gathered whilst preparing the Planning Strategy to demonstrate its view that it was sound and legally compliant. Those seeking changes to it had to demonstrate why this was not the case. Thus the onus was on people objecting to the Planning Strategy to convince him that it was either not sound or not compliant, or indeed that the Duty to Co-operate had not been met. He had held an Exploratory Meeting during the morning with the Council and other parties to discuss this matter, and as a result he considered that, on the basis of evidence so far, and subject to any further representations made on the matter, he considered that the Council had complied with the Duty to Cooperate as required by the Localism Act.
- 3.3 Following the closure of the last Hearing session in February 2013, he would start to write a Report to the Council with conclusions and the decisions on the action which the Council needed to take with regard to the Planning Strategy. The options open to him were as follows. He could recommend that the Planning Strategy be adopted as it was, in that it was sound and legally compliant. Or he could recommend that it be not adopted because it was unsound and/or not legally compliant. Or, if the Council requested, he could recommend one or more Main Modifications be included in it to make it sound or legally compliant and that it be adopted on that basis. The Council should then modify it in the light of those recommendations and move swiftly on to its formal adoption – subject of course to findings of soundness and legal compliance. When it came to writing his Report, he would recommend Main Modifications only if he considered them to be necessary in order to make the Planning Strategy sound (or legally compliant) – assuming of course that was his finding.

### **4. The Role of the Programme Officer**

- 4.1 He explained the role of the Programme Officer. Ms Duncan would act as an impartial officer for the Examination, under his direction. During the Hearings she would be based at the Town Hall, and her contact details had been set out on all the various documents.
- 4.2 Her principal function would continue to be to liaise with all parties to ensure the smooth running of the Examination, to ensure that the documents received both before and during the Hearings were recorded, to maintain the Examination Library and to assist the Inspector with procedural and administrative matters. She would continue to be able to provide advice on the programme, which might change. Everybody was urged to keep in contact with

her. All procedural questions should be addressed to her in the first place, and she would pass them to the Inspector if need be.

- 4.3 Through the Programme Officer, the Inspector had asked the Council to assemble a list of Core Documents that would be available in the Examination Library at all reasonable times. These would include Acts of Parliament, adopted development plans, the National Planning Policy Framework (the Framework), various Circulars, Background Papers and any other documents used in the preparation of the Planning Strategy. Documents may have to be added to the Core Document List during the course of the Examination. A list of Core Documents was available on the Examination webpages. Documents in the Examination Library would be available for inspection both before and during the Hearings.

## **5. Procedural Questions to the Council**

- 5.1 The Inspector asked the Council if it considered that it had complied with all the statutory requirements, including requirements for a sustainability appraisal, appropriate assessment under the Habitats Regulations and a Statement of Consultation in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations of 2012. Bearing in mind the key questions set out in Local Development Frameworks – Examining Development Plan Documents: Soundness Guidance paragraph 2.3, he asked if the Council was satisfied that the Planning Strategy was legally compliant. He said that if anybody was of a contrary opinion, he would ask them briefly to explain their reasons for it during the Questions and Answers Session, and he would no doubt be requiring them to put their views formally in writing, so the Council could respond formally in writing, all via the Programme Officer.
- 5.2 He also asked if the Council had undertaken a “self-assessment” exercise, as referenced in the Procedure Guidance at paragraph 3.4, concerning compliance with the aforementioned Act and associated Regulations and the appraisal of the Planning Strategy proposals at various stages and whether it generally conformed with current regional planning policy. He noted the Council’s written statements on Soundness and Legal Compliance Self-Assessments and the Regulation 22 Statement.

## **6. Procedure Prior to the Hearings**

- 6.1 The Inspector stated that he intended to conduct the Hearings as efficiently and informally as possible, keeping a tight rein on the discussions and the time taken. He would discourage repetition and would seek to minimise the amount of material that was necessary to reach informed conclusions on the issues. He intended to conduct a short, but focussed, series of Hearings and, in turn, to write a short, focussed Report. This would not address individual objections as was the case with the former UDP and Local Plan Inquiries, but would concentrate on the Planning Strategy’s soundness and legal compliance, or otherwise.
- 6.2 Those persons who had made representations on the Planning Strategy should have already decided whether their views can be suitably dealt with solely in a written form or whether they need to present them orally at a Hearing or Hearings. Both methods carry equal weight. With the Programme Officer he had studied all the representations, and everybody who had expressed a wish in them to state their views at a Hearing or Hearings had been invited to do so. Indeed, those who were advocating changes to the Planning Strategy had a right to participate in the Hearings. At a somewhat broader level, his view was

that if anybody who was involved in this Examination could help him to come to right, soundly based recommendations, he was more than happy to hear from them. He believed that it was the duty of everybody involved in the Examination to assist him in his task, and through him the Secretary of State. In return, he wanted to work with everybody in ensuring a fair hearing for all and the smooth and efficient running of the Examination.

- 6.3 The acceptances of requests to participate in the Hearings were not cast in stone and if anybody felt that they should attend additional, or alternative, Hearings, they should make their views known at the Meeting or very shortly afterwards, giving reasons for any requested changes. Similarly, on the Matters, Issues and Questions which were in draft form at present, he would welcome any comments upon its contents, or omissions.
- 6.4 Anyone who wished to take part in a Hearing and who intended to add to their submissions should submit any additional statement in advance of the Hearings. Submission of a statement was not, however, a requirement. If a further statement was submitted, it should be focussed upon the Matters, Issues and Questions which had been identified, and should be within the context of the original representation and should be sent to the Programme Officer by 5 pm on Friday 18 January 2013. That also applied to the Council. Others who did not wish to take part in the discussions at the Hearings may also wish to submit additional written statements. They could do so, but the same conditions applied. If, however, they did change their minds and decided that after all they did wish to participate, he would ask them to notify the Programme Officer as soon as possible.
- 6.5 There was no need to wait until Friday 18 January 2013 if these statements were ready to be submitted beforehand. They could be submitted to the Programme Officer as soon as possible. That would help the Inspector to give them all the attention which they deserved, in as much time as possible. Deadlines were important, keeping to them was to everybody's benefit and it greatly assisted with the smooth running of the Examination. A very good case indeed would have to be made for the deadline to be waived. The requirements for these statements were as set out in the Guidance Notes at paragraph 7.1. The same submission date and other requirements applied to any Statements of Common Ground (SOG) prepared jointly by the Council and one or more other participants. He asked if any SOCGs were being prepared at present, or were likely to be prepared.
- 6.6 The Further Statements must be succinct. Unnecessary detail and repetition must be avoided. It was the quality of the reasoning that carried conviction, not the bulk or weight of the documents. Nonetheless, it was vital that the fundamental elements of cases were clearly set out. Parties did not need to attach extracts of documents which were in the Examination Library but simply to make reference to them.
- 6.7 The Inspector would need statements from the Council setting out its responses to the Questions posed and explaining why it considered the Planning Strategy to be sound in these respects. They must be submitted by the same date, 18 January 2013. He would not be looking for a schedule of detailed rebuttals to the representations, but there would be no objection to the Council's responding to representations that it felt were of particular significance or concern.

**7. Programme of Hearings**

- 7.1 The programme of Hearings was as set out in the Matters, Issues and Questions document.

**8. Arrangements for, and Procedure at, the Hearings**

- 8.1 The Hearings would start at 10 am on Tuesday 5 February 2013 and subsequent ones were also likely to start at 10 am. A short break would be taken mid morning and mid afternoon, with a lunch break at about 1.00 pm. The Hearings would focus on the Matters, Issues and Questions which had been identified and the Questions would form the agenda in each case. They would be public hearings and members of the public were most welcome to attend, even if not taking part in the discussions.
- 8.2 The Hearings would take the form either of round table sessions, where several parties were present, or an informal hearing where there were only one or two parties taking part. This approach should provide an informal setting for dealing with issues, by way of a discussion which the Inspector would lead. Those attending may bring with them professional advocates and witnesses, but it was highly unlikely that there would be any formal presentation of evidence or cross-examination. He would expect any advocates to take part in the discussions in much the same way as other participants.
- 8.3 The number of people participating in particular Hearings would vary a good deal. At present, it varied from 1 to 7. This would change, however, in the light of the requests made at this Meeting. The Programme Officer had a list of the people invited to each Hearing, and it was available for inspection. It was also attached to the Matters, Issues and Questions document and would be on the webpage for the Examination.

**9. Procedure for handling proposed minor changes during the Examination.**

- 9.1 He stated that it may well be that, as a result of the discussions at and outside the Hearings, it would not be beyond the bounds of possibility that the Council might wish to make some amendments to the Planning Strategy which did not go to the heart of it, in other words they would not affect its soundness. They might be by way of updating, corrections or clarification. The question arose as to how they should be accommodated. On past experience, he said there were 2 options. There could be a schedule of proposed additional, (i.e.) not Main, modifications in the form of a living document which could be added to, as and when. He would expect the document to be updated when need be and put on the Examination webpage.
- 9.2 Alternatively, he said we could have a Planning Strategy document with amendments made to it so the proposed changes to it could be easily identified. Red could denote deletions and green could denote additions. Then, in theory, on the day of the last Hearing the Council could present him with a document and say "this is what we think our Planning Strategy should be". It would also, of course, include any Main Modification(s) should that be the case.

**10. Matters, Issues and Questions paper**

- 10.1 These were in draft form and comments had been received on it and the final edition would be sent out with the Notes of, and arising from, this Meeting.

**11. Arrangements for the Site Inspections**

- 11.1 The Inspector had already visited parts of Hastings and St Leonards to familiarise himself with the plan area and he would continue to view relevant areas and locations from public roads and footpaths before, during, and after the Hearings. These would be done unaccompanied by the parties, unless it was considered that an accompanied visit was necessary, for example where the land concerned could not be seen adequately from the public highway. In such cases, the Programme Officer would liaise with the parties to make the necessary arrangements. These visits would not, however, be an opportunity to discuss the merits or otherwise of the matters concerned. The Hearings were the place for that. He would expect most site inspections to take place after the end of the last Hearing.

**12. Close of the Examination**

- 12.1 Once he had gathered all the information necessary to come to reasoned conclusions and decisions on the main issues, he would write his Report. The Examination would remain open until the Report had been submitted to the Council. However, once the Hearings were completed, he could receive no further information from any party, including the Council, unless it was a matter upon which he had invited further comments. The Programme Officer would return any unsolicited documents to the sender.

**13. Submission of Inspector's Report**

- 13.1 He intended to announce the likely date of the submission of his Report at the end of the final Hearing.

**14. Questions, Answers, Comments and Any Other Business**

- 14.1 In reply to the Inspector's questions, the Council confirmed that it had abided by all statutory requirements. There were 2 documents indicating proposed changes to the Planning Strategy since its submission to the Planning Inspectorate. The Council proposed to continue to deal with modifications by way of updating a schedule of changes. Statements of Common Ground would be prepared as need be. The note-takers for the Examination would continue to be independent with no input to the Planning Strategy. The Council was unlikely to be represented by an advocate at any Hearing.
- 14.2 He then took questions from the participants about finding documents on the website, matters of site visits, omissions from the MIQs and Key Diagram location issues. The Council offered a tour of the website after the meeting and Rother DC indicated that a marker for the wind turbine had been incorrectly shown as Rother when it should have been within the Hastings boundary. It was agreed that Question 4.7 be expanded to refer to the letter of 12 December 2012 from Messrs Bury and Walkers LLP on behalf of the Residential Landlords Association, the Inspector noting the helpfulness of this letter. He undertook to ask the Council to appraise him at the beginning of each Hearing of any further proposed modifications.

**15. Closing Remarks**

- 15.1 The Inspector encouraged Participants to keep in touch with the Programme Officer to check the progress of the Hearings, to check that each one would take place as expected at present and to ensure that they were present at the appropriate time. Participants should also keep abreast of the Examination webpages to keep themselves up to date with matters including any further changes which the Council might be proposing to its Planning Strategy.
- 15.2 They should make best use of the remaining time before the start of the Hearings as any further statements must be submitted by Friday 18 January 2013.
- 15.3 There was no need for parties to make further submissions if they intended to rely entirely upon the written representations already made.
- 15.4 He thanked the parties for coming and looked forward to meeting everybody again at the Hearings in February 2013.

*Richard E Kollox*

Date: 19 December 2012