

# Mid Sussex District Plan 2021- 2039

Inspector: Miss Louise Nurser BA (Hons) Dip UP MRTPI

## EXAMINATION HEARINGS

### STAGE 1 GUIDANCE NOTE FROM THE INSPECTOR

As part of the examination of the Mid Sussex Local Plan (the Plan), the hearings will open on Tuesday 22 October 2024.

#### **Purpose of the Briefing Note**

1. The hearing sessions will initially take place with the Stage 1 hearings. This will consider the Duty to Cooperate, other legal and procedural requirements and main strategic issues including the spatial strategy and distribution of growth, housing, flood risk and transport matters.
2. Once the Inspector is content that she can move forward with the Plan other sessions will be organised at a date to be arranged.
3. The Plan was submitted to the Secretary of State on 10 July 2024. This note provides guidance to participants on the procedural and administrative arrangements for the examination of the Plan.
4. All those interested in the examination should familiarise themselves with the contents of the Guidance Note, in particular, those who wish to submit hearing statements and/or take part in the hearing sessions.

#### **The Programme Officer**

5. The appointed Programme Officer is Charlotte Glancy. The Programme Officer is an independent Officer who is responsible for receiving, recording and distributing the examination materials, maintaining the examination library and organising the hearing sessions. Communication between the Inspector and representors is also handled by Charlotte, who works under the direction of the Inspector. She is not an employee of the Council. Her contact details appear at the foot of this page. Any procedural questions or other matters that you wish to raise should be directed to her.

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## The Examination webpage

6. There is a dedicated Examination webpage which can be accessed via the following link:

<https://www.midsussex.gov.uk/planning-building/mid-sussex-district-plan/district-plan-review-examination/>

7. All the material produced for the examination hearings will appear on the webpage. If you do not have access to the internet, documents and other information can be obtained via the Programme Officer.

## The Inspector's role

8. My name is Louise Nurser BA (Hons) Dip UP, MRTPI. I have been appointed to examine this plan by the Secretary of State for Housing, Communities and Local Government.
9. At all times I will aim to work with the Council and everyone else involved in the examination in a positive manner and pragmatic manner. However, the purpose of the examination is to consider whether the Plan complies with relevant legislation and is sound.
10. As part of this process, I will need to determine whether or not:
  - The Council have complied with the Duty to Cooperate under Section 33A of the Planning and Compulsory Purchase Act 2004 (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 an adequate Sustainability Appraisal.
  - The requirements of the Conservation of Habitats and Species Regulations 2017 have been complied with, having regard to relevant national policy and guidance, and if an appropriate assessment has been carried out where necessary; and relevant publicity and procedural requirements have been met.
11. The *National Planning Policy Framework* [NPPF] makes it clear that to be found sound, the Plan must be:

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- **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area’s positively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
- **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- **Effective** - deliverable over its period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; **and**
- **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in the Framework and other statements of national policy, where relevant.

12. There are four 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.
- The Council has not complied with the Duty to Co-operate, and the Plan cannot progress.

13. Following the close of the hearings I will prepare a report to the Council with my conclusions. However, please note at the moment I am intending to undertake the hearing sessions in stages. My report will deal with broad issues rather than individual representations.

### Changes to the plan

14. The starting point is that the Council has submitted a local plan which it considers is sound and ready for examination. There are only two means by which changes can be made to the submitted plan:

- (1) *main modifications* recommended by the Inspector.

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(2) *additional modifications* made by the Council on adoption.

15. The Council, and other interested parties will have the opportunity to put forward suggested changes to the submitted Local Plan during the examination in order to address matters of soundness or legal compliance. I will take these suggestions into account.
16. However, 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<sup>1</sup>. 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.
17. 'Additional modifications' are those changes which do not materially affect the policies in the Plan<sup>2</sup>. They are made by the Council on adoption and are also sometimes referred to as 'minor modifications'<sup>3</sup>. The Council is accountable for any such changes. They do not fall within the scope of the examination<sup>4</sup> and will not fall within the scope of my report which I will submit at the end of the examination process.

### **Modifications proposed by the Council**

18. The Council has prepared a number of pre -submission changes to the plan which are available on the examination website<sup>5</sup>.
19. As far as I am aware these have not been subject to public consultation. Consequently, whilst they are useful as an indicator of where the Council considers both main modifications could be made to make the plan sound, my remit is to consider the Plan as submitted and I will be examining the Plan on that basis.
20. Changes to the Plan suggested by the Council, or indeed anyone else, may be discussed, where appropriate, at the relevant hearing session.

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<sup>1</sup> Under section 20(7B) & (7C) of the planning and Compulsory Purchase Act 2004

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

<sup>3</sup> For example, in *Procedure Guide for Local Plan Examinations*

<sup>4</sup> 1.4 & 3.25 of *Procedure Guide for Local Plan Examinations*

<sup>5</sup> DP2.

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21. As noted above I would only be able to recommend main modifications if they are necessary to make the plan sound.

### Representations on the Plan

22. The Council's statements on the representations made on the published plan, and all the representations are available on the examination webpage.

### The hearing sessions

23. The hearing sessions will be informal but structured and are designed to allow me to further explore matters which I consider require further consideration. Those who have previously made representations, in response to the Regulation 19 consultation, can have their views considered in a written form and/or discussed 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.
24. The hearing sessions are open to all to observe. However, **only** those who are proposing changes to the Plan in order to make it sound or legally compliant have the right to participate and speak.
25. Nonetheless, I may wish to invite a small number of additional participants to attend the hearings. This would be where their representations are of particular relevance to the matters under discussion, and their attendance would be of help to me in my consideration of these issues.
26. The physical face-to-face hearing sessions will be live-streamed and made available for non-participants and the public to watch on the internet. This will enable people to watch the physical hearings on-line and to keep up with the proceedings. Further guidance on how you will be able to watch will be made available prior to start of the hearings on the Examination website.

### The hearings programme

27. The list of Matters, Issues and Questions accompanying this note will form the basis of the discussion at the hearing sessions.
28. A draft timetable for the hearing sessions has been produced and circulated with these guidance notes. It may be that the detailed timetable will change closer to the start of the hearing sessions. Whilst the Programme Officer will endeavour to keep people informed, it is the participants' responsibility to keep in contact and ensure that they attend the appropriate sessions. The participants for each

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session will be those who **have already made relevant representations seeking changes to the Submission Local Plan** and have confirmed to the Programme Officer that they wish to speak.

29. All those who wish to speak at the hearing sessions should confirm this in writing with the Programme Officer by **5.00pm on Monday 16 September 2024**, stating which session or sessions they wish to speak at (referring to the Matter number and quoting the respondent ref. no.). This includes those who had previously indicated a desire to attend the examination hearings when submitting representations. If you do not contact the Programme Officer by this date, it will be assumed that you do not wish to speak at the hearings. The finalised timetable and list of participants will be confirmed before the hearing sessions commence. Only those who indicate their wish to speak in advance of the hearing sessions and make prior arrangements with the Programme Officer will be able to do so.
30. A final version of the hearing timetable will be published on the examination web site 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 web site or with the Programme Officer, and to ensure that they are present at the right time.**
31. The hearing session will consist of a structured discussion. This will be led by me. It will be based on my list of matters, issues, and questions. I will invite particular participants to begin the discussion on each question, and others will then have a chance to contribute.
32. There is no need for formal presentation of evidence, as I will have read all the relevant representations and hearing statements beforehand and will expect all the other participants to have done so as well. Nor will there be any cross-examination unless I consider it necessary to deal with a particular issue or questions. Barristers, or solicitors if present, will be treated as part of the respective team.
33. Morning and all-day sessions will normally start at 10:00 am, and afternoon sessions at 2.00 pm. Short breaks will be taken at convenient points in the mid-morning and mid-afternoon, and there will be a lunch break at about 1.00pm. The sessions will usually finish no later than 5:00 pm although I expect that they will finish considerably earlier.

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34. If anybody has any specific needs in relation to attending a particular session it is important that you let the Programme Officer know in advance.

### Hearing statements

35. Oral and written representations carry equal weight, and there is no need for participants to submit an additional hearing statement if they are content that their original representations adequately cover the issues and questions they are concerned about.
36. If participants do wish to produce hearing statements to supplement their original representations, for each matter they should be limited to:
- (i) the issues and questions identified in the Inspector's Matters, Issues and Questions document which are **relevant to their original representations**, and
  - (ii) any new matters that have arisen since the original representations were submitted.
37. Where several people or organisations wish to speak on the same issue, representors should consider producing a single joint paper. Please contact the Programme Officer to discuss.
38. **Statements should be no longer than is necessary to deal with their subject matter, and in any event must contain no more than 3,000 words.** This limit will be strictly applied.
39. Within this limit, they should be kept as short as possible. Appendices do not contribute to the word count but should only be included where directly relevant and necessary and should also be as succinct as possible. As such, the appendices should be presented in a way that the relevant text, table, figure, or map is obvious to all, and clearly referenced.
40. Statements should be stapled rather than bound and be hole punched ready to go in a lever arch file. In addition, they should:
- only answer the specific questions which are of relevance to the original representation.

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- clearly identify the number(s) of the question(s) being answered and include the respondent reference number. Where more than one Matter is being addressed a separate statement for **each** matter should be provided.
  - state whether any of the Council's *proposed main modifications* or *additional 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).
41. The Council should produce a hearing statement for each of the issues. In doing so, they should answer each of the individual questions set out in the Issues and Questions, either directly or by referring to relevant evidence already submitted. Because of this requirement, the Council's statements are not subject to the **3,000 word limit, but they should still be focussed and succinct.**
42. One paper copy and an electronic version of each hearing statement should be submitted to the PO by 5 pm on **Monday 30 September 2024**. Unless there are exceptional circumstances it is likely that late submissions will not be accepted and will be returned.
43. 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. Otherwise, statements will be returned.
44. Hearing statements will be posted on the examination webpage, so that they are available to all participants, and anyone else who wishes to read them. Because they will be available 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.

### Statements of Common Ground

45. Statements of Common Ground, agreed between two or more hearing participants, will be very welcome where they would help to identify points not in (or remaining in) dispute, and so enable the hearing to concentrate on the key issues set out in my MIQs that need further discussion. At the very latest, any Statements of Common Ground should be submitted by 5 pm on **Monday 30 September 2024** or earlier with the issue to which they are relevant.



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## Consideration of Alternative Sites not in the Submission Plan

46. Sites that have been put forward for inclusion in the Plan by objectors, but which have not been selected for allocation are referred to informally as 'omission sites'.
47. Representors should be aware that it is not my role to examine the soundness of any omission sites. Such sites will not be discussed at the Hearing sessions.

## Site Visits

48. I will visit key sites and key locations, appropriate to the examination. It is envisaged that my visits will be on an unaccompanied basis. If there is need for me to make an accompanied site visit, for example, if access is required to private property I will need to be accompanied by the Council and other interested parties for transparency purposes. Arrangements will be made via the Programme Officer.

## Further information

49. Further information about the preparation and examination of Local Plans can be found in:
  - [The Planning and Compulsory Purchase Act \(2004\) and associated Local Planning Regulations \(2012\) \(as amended\)](#)
  - [The Planning Inspectorate's Procedure Guide for Local Plan Examinations - 7th Edition \(2022\)](#)
  - <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>
  - [The Planning Inspectorate's Taking Part in Examinations \(2022\)](#)  
<https://www.gov.uk/guidance/taking-part-in-local-plan-examinations>.

## Summary/ key points

- The Matters and Issues Paper sets out the key questions which I will be considering.
- The hearing sessions will start on **Tuesday 22 October 2024 at 10 am** in the Council Chamber, Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS.

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- A draft timetable for the hearing sessions will be published.
- Participants at the hearings will be confirmed in due course.
- All of those, who **have previously submitted a relevant representation to the Plan**, wishing to participate (speak) at the hearings must confirm this in writing with the Programme Officer by 5.00pm on **Monday 16 September 2024**.
- Statements for the hearing sessions should be based on the Matters and Issues Paper and must be submitted to the Programme Officer by 5.00pm on **Monday 30 September 2024**.
- All documentation relevant to the examination is available on the Council's website. Participants are strongly urged to refer to this regularly as the programme for the examination is liable to change and new documents may be posted on the website.
- Any queries should be directed to the Programme Officer – **Charlotte Glancy, C/O Banks Solutions, 80 Lavinia Way, East Preston, West Sussex, BN16 1DD. Tel: 01903 776601, Mobile: 07519 628064. E-Mail: [bankssolutionsuk@gmail.com](mailto:bankssolutionsuk@gmail.com)**

### Next steps

50. Following the hearings, once I have considered what I have heard and read I will write to the Council setting out the next steps.

*Louise Nurser*

INSPECTOR

August 2024