

# Independent Examination of the Kent Minerals and Waste Local Plan

## INSPECTOR'S EXAMINATION GUIDANCE NOTE

**J Burston** BSc (Hons), MA, MRTPI, AIPRoW

**Inspector appointed by the Secretary of State**

Programme Officer: Louise St John Howe

Email: [louise@poservices.co.uk](mailto:louise@poservices.co.uk)

Telephone: 07789-486419

Post: PO Box 10965, Sudbury, Suffolk CO10 3BF

**Date: 26 July 2024**

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**Note** - This guidance should be kept for reference throughout the Examination. It should be read in conjunction with the Planning Inspectorate's [Procedure Guide for Local Plan Examinations](#). The **Matters, Issues and Questions** [ED7] for discussion at the Hearing, and the **Outline Programme** [ED8] for the Hearing have been published alongside this note.

Document References in [square brackets] are to the **Evidence Base and Submission documents** or the **Examination documents** which can be viewed on the Examination webpage at the link below or obtained from the Programme Officer.

Link to the examination webpage: [Kent Minerals and Waste Local Plan 2024-39 - Kent County Council](#)

**Items in bold are for particular note or action.**

	<b>Key Date</b>
Matters, Issues and Questions published.	<b>26 July 2024</b>
Advise Programme Officer of Hearing Participation	<b>5.00 pm on 13 August 2024</b>
Submission of Hearing Statements	<b>5.00 pm on 20 August 2024</b>
Hearing sessions commence	<b>10 September 2024</b>

## **Purpose**

1. Before a local plan can be formally adopted, it must be subject to an independent Examination. The Kent Minerals and Waste Local Plan 2024 to 2039, Submission (Regulation 19 publication) Plan, November 2023 was submitted for Examination on 17 May 2024 and I have been appointed by the Secretary of State to examine it. This note provides guidance on how the Examination will be run.
2. More information on the Examination process can be found in the Planning Inspectorate's [Procedure Guide for Local Plan Examinations](#). There is also a [short guide](#) which may be helpful, especially if you have not previously been involved in an Examination.

## **Inspector's Role and Purpose of the Examination**

3. My task is to examine whether the Plan is 'sound' and if it meets the legal and procedural requirements. The 'tests of soundness' are set out in paragraph 35 of the Government's [National Planning Policy Framework](#) (NPPF). Plans are 'sound' if they are positively prepared, justified, effective and consistent with national policy.
4. The potential outcomes of the Examination are that:
  - the submitted Plan is sound, meets the relevant legal requirements and does not need to be changed;
  - the submitted Plan is not sound and/or it does not meet the relevant legal requirements, but it could be made to do so by changing it (these changes are known as main modifications). If necessary, this may follow the preparation of additional evidence; or

- the submitted Plan is not sound and/or it does not meet the relevant legal requirements and it could not be made sound by changes. If so, I would recommend that the Council withdraws the Plan.

### **Programme Officer**

5. The Programme Officer plays a key role in organising the Examination and acts as the first point of contact for everyone. They work with the Inspector and independently of the Council. The contact details for the Programme Officer are given above and any questions should be directed to them.

### **Examination Webpage**

6. This provides information about the Examination, including the Hearing. It is maintained by the Programme Officer and will be updated regularly. A link to the webpage is provided above.
7. If you do not have access to the internet, please contact the Programme Officer so that alternative arrangements can be put in place.

### **The Examination Process**

8. A summary of the Examination programme and some key sources of information are set out in the annex to this note.
9. The Examination will now move through the following stages, which are outlined in more detail in the Procedure Guide:
  - preparation of statements in advance of Hearing sessions
  - Hearing sessions.
  - consultation on any main modifications (changes to the Plan)
  - Inspector's final Report
10. The timing and nature of the process is subject to variation depending on how the Examination proceeds. For example, there may be additional stages if I conclude that more evidence needs to be prepared to help justify the Plan or to inform changes.
11. The starting point is that the Council has submitted a Plan which it considers is ready for Examination. The Council should rely on the evidence put together while preparing the Plan to show that it is sound. Anyone wanting to change the Plan should explain why they think it is not sound and how their suggestion would put it right.

### **Changes to the Plan**

12. Once the Plan has been submitted for Examination there are only two ways in which it can be changed:

**Main Modifications** – these are any changes that are necessary to achieve a sound plan. During the Examination I will say if I think any main modifications

are needed. They would then be subject to public consultation, and I will consider any comments, before concluding on them. They may also need to be subject to a sustainability appraisal.

**Additional Modifications** – these are changes which do not materially affect the policies in the Plan. They are made by the Council when they adopt the Plan and are not a matter for the Examination. They are sometimes referred to as minor modifications.

13. I will also take account of any other potential modifications suggested by the Council or others during the Examination. However, if the Plan is already sound it is not the purpose of the Examination to improve it.

### **Representations made on the Plan**

14. The Council has prepared a Regulation 22 Statement, dated May 2024 [SD/04] which includes details of the consultation that has taken place on the Plan, and a summary of the main issues raised in the representations.
15. A full set of the representations made on the submitted Plan has been provided to me and I will take them all into account. These are sometimes referred to as responses to the 'Regulation 19' consultation, after the legal regulation relating to this stage. I will not consider representations made on any earlier draft versions of the Plan (which are sometimes referred to as the Regulation 18 stages).

### **Matters, Issues and Questions**

16. Based on my initial assessment, I have identified a number of matters, issues and questions I want to explore in this Examination. Essentially, they are a series of grouped questions on specific topics, intended to give an ordered structure to the Examination. They are set out in the Matters, Issues and Questions document, which has been published alongside this note [ED7].

### **Hearing Statements**

17. The Council should produce a statement for each Matter responding to all my Matters, Issues and Questions.
18. Other participants should only submit Hearing statements on topics they made representations about. However, if you feel that your representation adequately answers the issues and questions I have raised, there is no need to submit a Hearing statement.
19. Statements should be focussed and as short as possible, and in any event must contain no more than 3,000 words for each Matter. They should:
  - clearly identify (by reference number/letter) which specific Matters, Issues and Questions are being answered;
  - only answer the specific Matters, Issues and Questions which are of direct

- relevance to your original representation; and
- not introduce new evidence or arguments.
20. Appendices should only be included exceptionally if they are directly relevant and necessary and should not be used as a means of increasing the word-count. You should not attach any document over a page long as an appendix without first contacting the Programme Officer to check whether the Inspector is willing to accept it.
  21. Because the Council must answer every question, it may be justified to go over the limit of 3,000 words per matter in some cases.
  22. Please email electronic versions of your statement(s) to the Programme Officer in Word or PDF format by **5.00 pm Tuesday 20 August 2024**. If you are unable to email your statement, please contact the Programme Officer so that alternative arrangements can be made. Hearing Statements submitted after the deadline are unlikely to be accepted.
  23. All Hearing statements will be posted on the Examination webpage after the submission dates. They will not be circulated directly to participants. Anyone who is unable to access them on the webpage should contact the Programme Officer.
  24. Once the date for submitting Hearing statements has passed, no other written evidence will be accepted throughout the Examination, unless I specifically request it. To be fair to all participants, the Hearing should not be used to introduce additional evidence.

### **Statements of Common Ground**

25. The NPPF (in paragraphs 24 to 27) states that local authorities should demonstrate effective and on-going joint working with neighbouring authorities and other prescribed bodies (the 'duty to cooperate') by preparing one or more statements of common ground.
26. It is also helpful for statements of common ground to be agreed between the Council and other parties. This is particularly desirable where there are significant unresolved issues relating to soundness or compliance with legal requirements. Wherever possible statements should be used to resolve these problems. Failing that they should define any remaining unresolved disagreements that could affect soundness.
27. If any further statements of common ground are to be prepared then they should, wherever possible, be completed by **Friday 9 August 2024**. They will be published as Examination documents on the Examination webpage, so that other representors are aware of their contents before submitting their Hearing statements. This should not preclude the Council from continuing to engage on outstanding issues with other bodies, which may then result in an update to an existing statement of common ground, if that would help the Examination.

## Examination Hearing Sessions

28. The Hearing sessions are an important part of the Examination and will start at **09.30 hours on Tuesday 10 September 2024**. The Outline Programme for the Hearing [ED8] is being issued at the same time as this guidance note and will be on the Examination webpage. It contains details of the sitting days.
29. The Hearing sessions will be held face-to face at 'The Old Restaurant' in Maidstone, the full address for which is as follows:  
**County Hall, Maidstone, Kent ME14 1XQ**
30. Each Hearing session will consider a specific topic based on my Matters, Issues and Questions. A more focussed agenda providing further guidance for the discussion will be published in advance of one or more of the Hearing sessions. The Hearing sessions will be run as a structured discussion which I will lead. There will be no formal presentation of cases or cross-examination of participants.
31. Anyone may attend a Hearing session as an observer, but only those who made a representation seeking to change the Plan have a right to speak and take part. The right to be heard only applies to the sessions relevant to the original representation. It is up to you whether you want to rely on the consultation response you made or if you want to take part in the Hearing. However, the Hearing sessions are not an opportunity to simply repeat a case already set out in written representations. All representations will be taken into account, regardless of whether they are made orally at a Hearing session or in writing.
32. If you have a right to take part and wish to do so, please contact the Programme Officer by **1700 hours on Tuesday 13 August 2024** indicating which session(s) in the published Outline Hearing programme you wish to take part in and which are relevant to your representations. You must do this regardless of what you may have indicated in your original representations. Please note that if you do not contact the Programme Officer by that date, it will be assumed that you do not wish to take part and you will not be listed as a participant in the Hearing sessions.
33. Participants may choose to be represented by someone else, for example a professional expert.
34. Those who made representations which did not seek changes to the Plan, including those supporting it, do not have a right to take part in the Hearing. However, I may invite additional people to take part if this would help me assess the Plan.
35. To ensure that there is sufficient space, organisations participating in the Hearing sessions will normally be allocated one seat at the table, with members of their team "hot-seating" as necessary. Similarly, the Council should limit the number of its representatives to those needed to deal with the topic under discussion.

36. Where several representors or organisations wishing to take part in the Hearing have similar points, it will help me if they can arrange to be represented by one or two spokesperson(s). Please contact the Programme Officer to discuss this.
37. Please let the Programme Officer know as soon as possible if you have any specific needs or requirements to enable your attendance at, or participation in, the Hearing sessions.
38. The issues considered in local plan Examinations can be controversial, sometimes leading to strong and conflicting views. At all times during the Examination participants and observers are expected to act in a courteous, respectful and helpful manner towards each other. I will ensure that all participants are given a fair opportunity to express their views. Inappropriate material submitted during the Examination will not be accepted. Threatening or aggressive behaviour of any kind will not be tolerated.

### **Site Visits**

39. I will decide which sites and which parts of the Plan area I will visit to help me reach my conclusions. I may carry out these visits, before, during and after the Hearing. I will visit unaccompanied, unless it is necessary to go onto private land, in which case I will make arrangements through the Programme Officer.

### **After the Hearing**

40. During the Hearing I will let the Council know about any changes to the Plan (main modifications) I think may be necessary. I may also write to the Council after the Hearing has ended, for example, if I am unable to reach conclusions in the Hearing on the need for some main modifications.
41. The Council will then draft the main modifications and agree them with me, before making them available for public consultation. I will consider any representations about them before reaching my final conclusions.
42. I will then prepare a Report for the Council setting out my conclusions and my recommendations on any main modifications that are needed. My Report will deal with the main issues of soundness and any procedural and legal issues. I will consider all the points made during the course of the Examination. However, I will not be reporting on every issue, question or representation.

### **Close of the Examination**

43. The Examination will close when my Report is submitted to the Council. The Council must then decide whether to formally adopt the Plan. However, the Plan can only be adopted if it includes any changes I have recommended to make it sound.

44. The Council should publish my Report as soon as they reasonably can after receiving it. Once the Report has been issued my involvement in the Plan is over.

*Joanne Burston*

INSPECTOR

25 July 2024



## Annex

### Summary of the Examination programme:

- **Friday 26 July 2024** – Outline Hearing Programme [ED08] and this Guidance Note [ED06 ] published.
- **Friday 26 July 2024** – Inspector’s Matters, Issues and Questions published [ED7].
- **1700 hrs on Tuesday 13 August 2024**- Deadline to confirm with the Programme Officer whether you wish to exercise your right to appear and be heard at an Examination Hearing session.
- **1700 hrs on Friday 9 August 2024** - Deadline for submission of any Statements of Common Ground
- **1700 hrs on Tuesday 20 August 2024** - Deadline for submission of Hearing statements.
- **0930 hrs on Tuesday 10 September 2024** – Hearing sessions begin.

### Further sources of information:

Further information about the preparation and examination of Local Plans is available as follows (by clicking on the links below):

National planning policy and guidance

- the Government’s planning policy - [National Planning Policy Framework](#)
- the Government’s [Planning Practice Guidance](#)
- the Government’s planning practice guidance specifically on local plans - [Plan-making](#)

The Local Plan Examination process and the role the Planning Inspectorate plays in that - [local plans and the examination process](#). This page includes:

- the Procedure Guide for Local Plan Examinations
- a short guide to taking part in Local Plan Examinations

Relevant legislation – is available at <http://www.legislation.gov.uk/>

- Planning and Compulsory Purchase Act 2004 (as amended)
- The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)