

PLEASE READ NOW: If you are an Agent, or part of a larger group, please ensure that ALL members of your team or group receive a copy of this Note and act on the advice it contains

TONBRIDGE AND MALLING LOCAL DEVELOPMENT FRAMEWORK

Public Examination of the Core Strategy

Notes of the Pre-Examination Meeting held at the East Malling Conference Centre, on Thursday 8th March 2007

Introduction

1. The Inspector, Laura Graham, introduced herself and the Programme Officer (PO), Lynette Benton. An agenda had been circulated which followed the order of the Inspector's Briefing Note, sent at the same time in early March, to all those making representation on the Core Strategy Development Plan Document (DPD). **This Note of the Pre-Examination Meeting replaces that Briefing Note.**
2. The oral Examination into the Council's submitted Core Strategy Development Plan Document (CSDPD) will open at 10.00am on 9th May 2007 at East Malling Conference Centre, New Road, East Malling, Kent, ME19 6BJ. Separate Examinations into the Tonbridge Central Area Action Plan (TCAAP) and Development Land Allocations Development Plan Document (DLADPD) will be arranged in the Autumn of 2007 following the publication of the Inspector's binding report on the Core Strategy (please see below). A further PEM will be held in relation to those DPDs in due course.
3. Brian Gates, the Council's Chief Planner (Policy) introduced himself and his team: Jill Peet, Principal Planning Officer, Bruce Stewart, Senior Planning Officer and Nigel DeWit, Senior Planning Officer. For the Examination he would also be calling Lawrence Dey, Chief Housing Officer, David Couttie, David Couttie Associates (DCA) Raymond Ricks (Boyer Planning) and possibly Ray Dines or Malcolm Appleby from the County Highway Authority.

Procedural Questions to the Council

4. In response to the Inspectors' questions, the Council said that all statutory procedures had been complied with. Any documents relating to these can be viewed via the PO.

Position Statements

5. The Council told the meeting that they had produced thirteen Position Statements (List enclosed). All but one had been sent to those who had made representations to those matters in the relevant Position Statements. The remaining one on Employment Policy would be sent out on the 9th March. A further Annex A to CS03 would be available within two weeks. All the Position Statements can be viewed on the Council's web site or via the PO.

The Inspectors' role and further information

6. The Inspector's task is **to consider the soundness of the Core Strategy**, based upon the tests of soundness set out at paragraphs 4.23 and 4.24 of Planning Policy Statement 12¹, *Local Development Frameworks* (PPS12). Further details of these tests, and the Examination process in general, are contained in The Planning Inspectorate's booklet *Development Plans Examination – A Guide to the Process of Assessing the Soundness of Development Plan Documents*² (particularly section 1.4). An overview of the new process and a 'frequently asked questions' (FAQs) page may be viewed at the websites listed below³.

¹ Copies of the Government's PPSs are available to view in the Examination Library, or on the DCLG website at: <http://www.communities.gov.uk/index.asp?id=1143802>

² Available to view in the Examination Library or at: http://www.planning-inspectorate.gov.uk/pins/appeals/local_dev/develop_plan_docs.pdf

³ http://www.planning-inspectorate.gov.uk/pins/appeals/local_dev/Soundness_of_DPD.htm;
http://www.planning-inspectorate.gov.uk/pins/appeals/local_dev/FAQs-general%202.pdf

7. Following the close of the Examination the Inspector will prepare a report for the Council with conclusions and any changes required to the DPD. The report will be binding on the Council, which will then move to formally adopt the DPD, changed as necessary to reflect the decisions in the report. All other DPDs will be required to be in conformity with the Core Strategy. The Inspector is not yet in a position to say how long the report will take but will be able to give a date at the close of the Examination.

The Programme Officer

8. Lynette Benton the Programme Officer (PO) is acting as an impartial officer of the Examination under the Inspector's direction and not as an employee of the Council. Prior to and during the Examination she will be at the Examination office on 01732 876296, Mobile: 07740 528707 or Email: programmeofficer@tmbc.gov.uk.
9. The main tasks of the PO are to liaise with all parties to ensure the smooth running of the Examination, to organise the Examination Programme, to ensure that all documents received both before and during the Examination are recorded and distributed, and to keep the Examination Library. Copies of all the Examination documents, including the representation forms, written submissions and Position Statements, will be available in the Examination Library⁴.
10. During the Examination the PO will be able to tell you how closely the Programme is being followed. Alternatively, you will be able to view a regularly-updated programme on the Council's web site at <http://www.tmbc.gov.uk/cgi-bin/buildpage.pl?mysql=1179>. Any other procedural questions or other matters that anyone wishes to raise prior to the Examination opening should be made through the PO.

Number and scope of representations

11. 367 representations from 71 organisations and individuals were received by the Council following the submission of the Core Strategy DPD. These representations cover most aspects of the Core Strategy.
12. The Council's Core Strategy and the TCAAP and DLADPD were submitted and published together. As the TCAAP and DLADPD will be subject to a second Examination after the Inspector has published her binding report on the Core Strategy, there will be no opportunity to revisit matters dealt with at this first Examination. There may be some individuals or organisations who have only submitted representations to the TCAAP and DLADPD in the belief that matters relevant to the Core Strategy could be raised. Such respondents could be disadvantaged by this. The Examination process is new to us all and it is thus important that the Inspector gains all the information she needs at the first Examination to reach proper conclusions on the Core Strategy. Please contact the PO as soon as possible if you feel you may be disadvantaged by the way you submitted your representations.

Progressing your representations

13. The new Examination format is a significant departure from previous Local Inquiries into objections to a local plan. The first Examination will concentrate on the soundness of the Core Strategy, having regard to the representations made. It bears no resemblance to a planning appeal inquiry. **The Inspector's starting point is that the Core Strategy is sound unless it is shown to be otherwise by the evidence presented in writing or at the hearings. Those seeking changes must demonstrate why the DPD is unsound by reference to one or more of the tests of soundness.**

⁴ Representations can be viewed at: <http://www.tmbc.gov.uk/cgi-bin/buildpage.pl?mysql=2590>

14. The oral Examination will progress by way of a series of hearing sessions, based on the matters identified (see below). These hearings will proceed by way of an inquisitorial, rather than adversarial, approach, focussing on the main issues identified. The Inspector will endeavour to progress the Examination in an effective and efficient manner, keeping a tight hand on the discussions and time taken. As part of that process, it is her aim to minimise the amount of material to that necessary to come to informed conclusions on the issues of soundness. In that way she hopes to conduct a short, focussed series of hearings and, in turn, produce a short, focussed report.
15. Respondents have initially indicated whether their views should be dealt with in a written form or whether they feel that they need to come and discuss them orally at a hearing session. **Both methods will carry the same weight and the Inspector will have equal regard to views put orally or in writing.** Attendance at a hearing session will only be useful and helpful to her if you wish and need to participate in a debate.

Matters and the Examination Programme

16. The Inspector prepared a draft list of Matters which was circulated at the meeting and placed on the Council's website. Based on this list, the PO prepared a draft Programme, which was also circulated at the meeting and placed on the website. The Inspector invited comments at the meeting and indicated that she would consider any comments received on the Matters or Programme up to 16th March.
17. The Inspector indicated she would consider requests (through the PO) to change dates but as there is usually more than one or two people to consider it is difficult to change or amend appearance dates.
18. The Inspector has now considered the comments made, and enclosed with these notes is the List of Matters and the Programme for the Examination. These are also available to view on the Council's website.

The hearing sessions

19. This will be the normal way of proceeding. A separate hearing will be held for each of the matters identified. The hearing format will provide a relatively informal setting for dealing with issues, by way of a discussion led by the Inspector. Those attending may bring with them professional experts, though there will be no formal presentation of evidence or cross-examination. Barristers and solicitors, if present, will be treated as part of their team. The discussion will focus on the issues identified and the agendas that the Inspector will provide before the hearings. **The emphasis will be on the tests of soundness.** The Inspector may make a few brief comments on the matters that she wants to discuss, then she will invite individuals to make their contribution in response to the points she has raised. The hearing will then progress under the Inspector's guidance, drawing those present into the discussion in such a way as to gain the information necessary to come to a firm conclusion and decision on the matters before the hearing. There will be an opportunity within the discussion to ask questions of the other side.
20. The hearings sessions will normally start at 10.00am and 2.00pm each day. A short break will be taken mid morning and mid afternoon. Lunch will be taken about 1.00pm. It will be for individual participants to check the progress of the Examination, either on the website or with the PO, and to ensure that they are present at the correct time.

Reference (core) Documents

21. The Council has prepared a list of Reference Documents (RDs) that will be available in the Examination Library some of these will be available via the website. These will include the Regional Spatial Strategy, Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs), Background Papers and any other documents that the parties are likely to need to refer to. Accordingly, parties should not attach extracts of these documents to their statements as they are already Examination documents. If there are other documents that are likely to be used by more than one person in the examination please could you ensure that 3 copies are given to the PO to be part of the Examination Library.

Statements of Common Ground

22. The discussions between the Council's officers and those seeking changes to the Core Strategy are already underway and can continue, if necessary, up to the hearing sessions. In this way misunderstandings can be resolved and facts agreed at an early stage so that Statements of Common Ground can be prepared. These Statements can provide considerable opportunities to save time, cost, remove duplication and reduce the bulk of paper. Consequently, statements for the hearing sessions can be shorter, concentrating on the key issues which separate the parties. The Inspector is expecting all those who have submitted representations seeking changes to take the initiative prepare first drafts and arrange discussions with the Council's officers. This work should commence **now**, with the aim of completing the Statement at least three weeks before the first hearing statements are due, i.e. **by 22 March 2007**. However, the Inspector will be happy to receive any Statements of Common Ground right up to the Hearing date.

Submission of statements

23. The representations already made should include all the points and evidence to substantiate representors' cases. The examination is not the time to be submitting new material. All relevant evidence/information should have been put before and considered by the LPA during the preparation process. The Inspector will only accept further statements from the parties which respond to her identified matters and issues. Such statements should be sent to the PO no later than five weeks before the start of the Examination, i.e. by **4th April 2007**. Any further response from the Council for a hearing session should be available 2 weeks before the start of the hearing, i.e. **25th April 2007**. These dates also apply to those who wish to submit Further Written Statements. **The Inspector told the meeting that there would be no flexibility with these dates.**
24. The Inspector also made it very clear that once the hearing session's element of the examination is complete, she cannot receive any further information from any party unless it is something she has specifically requested. Any unsolicited items will be returned to the sender.
25. Those appearing at Examination hearings should ensure sufficient copies of all statements are provided to the PO for issuing to each participant, plus six (for the Inspectors, Council and Library), e.g. if 10 people are listed for a hearing, then the PO will require 16 copies (to include one unbound, for further copying, and two hole-punched, for the Inspectors). Six copies of statements for written representations (one unbound, two hole-punched) should be submitted. None of the statements should be longer than 3,000 words, be they for a hearing session or amplification of written representations. Any submissions longer than this will be returned by the PO for editing. Statements should be prepared on A4 paper, printed on both sides, not spiral bound, but punched with two holes, as specified above, for inclusion in the Inspector's files. Any photographs should be submitted in A4 format and should be annotated on the back. If possible, statements should also be submitted electronically so that they can be included on the Examination website.

26. No statement/piece of paper will be accepted if it fails to be clearly marked, **at the top, right hand corner**, with the relevant respondent reference and appropriate matter number, e.g. Matter 2/9876 for respondent 9876's statement on Matter 2. The Council's documents should be referenced TMBC, followed by the matter and policy number, e.g. TMBC/Matter 09-CP23. Reference Documents to be numbered RD1.1, RD1.2, etc.
27. Supporting material – appendices to statements – should be limited to those which are **essential** and not contain extracts from any publication that is already before the Examination, such as the Reference Documents and nationally available Government guidance. Any appendices should have a contents page and be paginated throughout. Whilst the word limit does not include text in appendices, they should respect the aim of succinctness and anyone submitting appendices should indicate which parts are particularly pertinent and on which they are particularly relying.

Form of statements

28. The Inspector emphasises the need for succinct submissions, with the avoidance of unnecessary detail and repetition. It is the quality of the reasoning that carries weight, not the bulk of the documents. There is no need for verbatim quotations from the DPD or other sources of policy guidance. Nonetheless, it is vital that the fundamental elements of cases are set out clearly and succinctly – the Examination is not the place for rabbits to be drawn out of hats! Indeed, nothing should be before the Examination which has not been raised in the previous consultations on the Issues and Options and Preferred Options documents.

29. The Examination starts from the basis that the DPD is sound unless otherwise shown. Essentially the Inspector needs to know the following from those submitting statements:

- What part of the DPD is unsound?
- Which test(s), set out in paragraphs 4.23 and 4.24 of PPS12, does it fail?
- Why does it fail?
- How can the DPD be made sound?
- What is the precise change/wording that you are seeking?

30. From the Council the Inspector requires a response statement, setting out why it considers the DPD to be sound in that respect and why the changes sought by other parties would make it less sound or unsound.

Site visits

31. The Inspector has carried out a tour of the District to familiarise herself with the area. She will visit all those areas referred to in the representations, before, during or after the Hearings. This will be done unaccompanied by the parties.

Questions

32. A number of Questions were asked throughout the meeting and they are summarised below.

Question 1 - Sue Bevan, Slade Area Residents Association, raised the question about the phrase in **Para 12** as to how you could be disadvantaged if you have representations in for The Tonbridge Town Centre Action Plan and the Development Land Allocation DPD and not the Core Strategy.

The Inspector responded that the Council had issued all three documents at once and at that point they were all expected to be examined at the same time. However, it has now been agreed that all DPD's must be in accordance with the Core Strategy. So the question the respondent must ask is 'In order to accommodate what I need does the Core Strategy have to be changed?' If the answer is yes, then the Representations need to go to the Core Strategy Examination.

Question 2 - Andrew Flindell, Aylesford Parish Council, asked what the relationship between the Position Statement and the Statement of Common Ground.

The Inspector explained that the Position Statement set out the Council's Position to that Matter. However, the Statement of Common Ground was the points that could be agreed between the Council and the Respondent that would then not need to be heard at the Examination. The Inspector would only be hearing the differences not what could have been agreed before hand.

Question 3 - Mr Flindell also asked if there was scope for amendment to the Position Statement before the Examination.

The Inspector responded that this would only happen if the respondent could persuade the Council to change. She advised that respondents should talk to the Council as soon as possible.

Question 4 - David Phillips Andrew Martin Associates for Hallam Land asked if there was any flexibility in the date of the 22nd March for the Statement of Common Ground to be in with the Programme Officer.

The Inspector replied that she would like to see the Statement of Common Ground in as soon as possible but she was prepared to be flexible on the date and the negotiations could continue right up until the hearing as this would save hearing time if the common Ground was established.

Question 5 - Mr Phillips also stated that for the Land Allocations DPD his site had not been advertised as an omission site.

The Inspector requested that he discussed this with the Council.

Close

33. The Inspector thanked everyone for coming and the meeting closed at 2.35 pm

List of relevant legislation and guidance

Planning and Compulsory Purchase Act 2004
The Town and Country Planning (Local Development) (England) Regulations 2004
European Directive on Strategic Environmental Assessment (2001/42/EC)
The Environmental Assessment of Plans and Programmes Regulations 2004
Planning Policy Statement 12: Local Development Frameworks
Creating Local development Frameworks: A Companion Guide to PPS12
Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents
Development Plans Examination – a Guide to the Process of Assessing the Soundness of
Development Plan Documents: published by The Planning Inspectorate

Key points

The Inspector emphasised:

that she will have equal regard to views put orally or in writing;
the need for succinctness, respecting the letter and spirit of the 3,000 word limit on any necessary further submissions;
the importance of meeting the target dates for further work;
that any further submissions should focus on the Matters for Examination and the tests of soundness.

Key Dates

Statements of Common Ground	as soon as they are available
Deadline for submission of Statements, whether for appearances or for further written representations	4th April 2007
Any further response from the Council	25th April 2007
Opening of the examination hearings	9th May 2007

Programme Officer Contact Details

Tonbridge & Malling Borough Council	Tel: 01732 876296
Gibson Building	Mobile: 07740 528707
Gibson Drive	Fax: 01732 842170
Kings Hill	Email: programmeofficer@tmbc.gov.uk
West Malling	
Kent ME19 4LZ	

Lynette Benton
Programme Officer
21st March 2007