

ID41

## Shropshire Council

### Examination of Shropshire Local Plan 2016-2038

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**Examination webpage:** <https://shropshire.gov.uk/planning-policy/local-planning/local-plan-review/>

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## GUIDANCE NOTE FROM THE INSPECTORS FOR STAGE 2 HEARINGS

### Purpose

1. The Shropshire Local Plan 2016-2038 was submitted for examination on 3 September 2021. We have been appointed by the Secretary of State to conduct the examination. This note provides guidance on the procedural and administrative arrangements for the examination.
2. Further information on the examination process can be found in the Planning Inspectorate's publication 'Procedure Guide for Local Plan Examinations' which is available via <https://www.gov.uk/guidance/local-plans>. There is also a [short guide](#) aimed particularly at those taking part in an examination for the first time.

### Programme Officer

3. Kerry Trueman is the Programme Officer (PO) for the examination. She is working under our direction and is independent of the Council. Her contact details are given above.
4. The main tasks of the PO are to act as the channel of communication between the Inspectors, the Council and all the other participants, to liaise with all parties to ensure the smooth running of the examination, to organise the hearing programme, and to oversee the publication of documents on the examination webpage.
5. Any procedural questions or other matters that you wish to raise should be directed to the PO.

## **Examination webpage**

6. The examination webpage is hosted on the Council's website, but its content is controlled by the Inspectors and the PO. All documents for the examination, including the evidence base and the procedural material, are published on the examination webpage – the link is provided above.
7. If you do not have access to the internet, please contact the PO so that alternative arrangements can be put in place.

## **Inspector's role**

8. Our task is to consider whether the submitted Plan ("the Plan") complies with the relevant legislation and is sound. The National Planning Policy Framework (NPPF) (paragraph 35) makes it clear that to be found sound the Plan must be:
  - a) positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively 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;
  - b) justified – an appropriate strategy taking into account the reasonable alternatives, and based on proportionate evidence;
  - c) effective – deliverable over the plan 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
  - d) consistent with national policy – enabling the delivery of sustainable development in accordance with the NPPF's policies and other statements of national policy, where relevant.
9. It is not part of our role to make improvements to the Plan, provided that it is sound and legally compliant.

## **The examination**

10. There are three possible outcomes to the examination:
  - the submitted plan is sound and legally compliant;
  - the submitted plan is not sound and/or legally compliant but could be made so by changes (known as main modifications), if necessary, following the preparation of additional evidence; or
  - the submitted plan is not sound and could not be made sound by changes. If so, I would be likely to recommend that the Council withdraws the plan. The same would apply if there is a failure of legal compliance which cannot be remedied (for example, a failure to comply with the duty to cooperate).

11. After all of the hearings have closed, we will prepare a report for the Council setting out our conclusions and recommendations. Our report will deal with the main issues of soundness and legal compliance, taking into account the representations made but without responding to each of them.

### **Changes to the Plan**

12. The starting point for the examination is that the Council has submitted a plan which they think is ready for examination.<sup>1</sup> Now that the Plan has been submitted there are only two means by which changes can be made to it:
  - a) as main modifications recommended by the Inspector; or
  - b) as additional modifications made by the Council.
13. We can only recommend main modifications if they are necessary to make the submitted Plan sound and/or legally compliant. Any potential main modifications must be subject to consultation before we recommend them, and in some cases, they may also require further sustainability appraisal.
14. Additional modifications (sometimes also referred to as “minor modifications”) are changes which do not materially affect the policies in the Plan. They may be made by the Council on adoption and do not fall within the scope of the examination. The Council is accountable for any additional modifications that are made.
15. The Council has suggested a series of changes to the Plan as Schedule of main modifications. The latest version of this document is [GC4m]. This is a ‘living’ document that may be amended by the Council throughout the examination. We will consider those changes and they may be discussed in the hearing sessions, and we will refer to the track-changed version in the hearing, but it is important to recognise that the basis for our examination is the submitted Plan, not including the suggested changes. We will only recommend changes to the submitted Plan that amount to main modifications if they are required to ensure the soundness and/or legal compliance of the submitted Plan.

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

16. The Council has prepared a Consultation Statement [SD004] which includes details of the original Regulation 19 consultation that took place on the Plan, and a summary of the main issues raised in the representations. The Council has also prepared a response to the representations made at that stage [GC4o]. The Council have also produced a summary of representations to the more recent full consultation on its additional evidence (GC52).
17. A full set of the representations made on the Plan at the pre-submission (Regulation 19) stage has been provided to us and we will take them all into

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<sup>1</sup> S20(2) of the Planning and Compulsory Purchase Act 2004

account. The legislation does not require us to take account of any representations made at any earlier stage, including under Regulation 18.

18. We will also take into account representations made in relation to the additional evidence produced by the Council and subject to consultation by them for 6 weeks commencing on 25 April and ending on 11 June 2024.

### **Examination hearings**

19. The initial stage of hearings considered the matters set out in our matters, issues and questions document [ID7, ID24 & ID29]. There is correspondence from us relating to these on the examination website.
20. The next hearings sessions (stage 2) will consider some outstanding matters from stage one, including the updated Sustainability Appraisal. This will be followed by hearings in relation to development management policies, site allocations policies and other matters such as 5 year housing land supply.
21. The stage 2 examination hearings, which form part of the examination of the Plan, will commence at 10am on **15 October 2024 at Council Chambers, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND**. Mostly hearings will take place on a face to face basis but some later ones will take place virtually. The draft programme for the hearings [ID42] is being issued at the same time as this guidance note and this sets out which format will be used for the various hearing sessions, along with the time that each session will commence. The timings on the draft programme may change once the number of participants for each session is finalised.
22. Discussion at the hearings will be based on our matters, issues and questions [ID40]. More focussed agendas providing further guidance for the discussion will also be published on the examination website in advance of the hearing session.

### **Attending the hearing**

23. Anyone may attend the hearing as an observer, but only those who have made representation(s) seeking to change the Plan have a right to appear before, and be heard by, the Inspectors.
24. Written representations carry the same weight as those made orally at a hearing session. Participation at the hearing is therefore only likely to be beneficial if you have specific points to contribute on the published matters, issues and questions. Normally you may only take part in the hearing session(s) that are relevant to your original representation(s).
25. If you have a right to be heard and you wish to exercise that right, you should contact the PO by **16 August 2024** indicating which session(s) in the published hearing programme you wish to participate in. You must do this regardless of what you may have indicated in your original representation (s). Please note that if you do not contact the PO by that date, it will be assumed

that you do not wish to appear and be heard, and you will not be listed as a participant.

26. Representors who are not seeking changes to the Plan, including those who have made representations supporting it, do not have a right to take part in the hearing. However, we may invite additional participants to take part in the hearing if their participation would assist us in determining the soundness and legal compliance of the Plan.
27. Comments that were made verbally or in writing in relation to earlier hearing sessions will still be taken into account, it is not necessary to reiterate these again now.
28. To ensure that there is sufficient space, organisations participating in the face to face 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 at the table to those needed to deal with the topic under discussion.
29. Where several representors or organisations who have similar points to make wish to attend the hearing, it would assist us if they would arrange to be represented by one or two spokesperson(s).
30. Please let the Programme Officer know as soon as possible if you have any specific needs or requirements to enable your participation in the hearing session(s).

### **Hearing statements**

31. Please be aware that the Council have submitted further information and evidence since it submitted the Plan for examination. This and letters from the Inspectors can be found on the examination website by following this link: <https://shropshire.gov.uk/planning-policy/local-planning/local-plan-review/draft-shropshire-local-plan-2016-2038-examination/examination-library/examination-stage-documents/>
32. The Council should produce a statement for each hearing session responding to all the identified matters, issues and questions.
33. Other participants in the hearing sessions should only submit hearing statements if they have points to make on the identified matters, issues and questions that were not covered in their original and/or additional representations.
34. If you are submitting a statement, you should submit a separate one for each hearing session. Statements should be concise and focussed, and in any event must contain no more than 3,000 words for each matter.
35. Statements should:

- clearly identify 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(s);
  - not introduce new evidence or arguments, except where this relates to the additional post submission evidence submitted by the Council referred to in paragraph 31 above.
36. Appendices should only be included if they are directly relevant and necessary and should not be used as a means of increasing the word-count. If you need to refer to a large document that is not on the examination webpage, please contact the PO as it may be more efficient for it to be added to the webpage rather than attached to a statement.
37. The Council's statements should also be focussed and succinct. However, because the Council has to answer every issue and question, it may be necessary to go over the limit of 3,000 words per matter.
38. Please email electronic versions of your statement(s) and any appendices to the Programme Officer in Word or PDF format by **Friday 20 September 2024**. If you are unable to email your statement, please contact the PO so that alternative arrangements can be made. In addition, you should send two paper copies of your statement(s) and of any appendices to arrive by **Tuesday 24 September 2024**.
39. Hearing statements will be posted on the examination webpage after the submission date, so that they are available to all participants and anyone else who wishes to read them. Because they will be available in this way, they will not be circulated directly to participants. Anyone who is unable to access them on the webpage should contact the PO.
40. Once the date for submitting hearing statements has passed, no other written evidence will be accepted, unless we specifically request it. In fairness to other participants, the hearing sessions should not be used to introduce additional evidence.

### **Statements of Common Ground**

41. In the context of the duty to co-operate, the NPPF (paragraph 27) expects one or more statement(s) of common ground (SoCG) to be produced documenting the cross-boundary matters being addressed and progress in co-operating to address them.
42. It is often also useful for SoCGs to be drawn up between the Councils and other public bodies, other participants, or site promoters to confirm specific matters that have been agreed, particularly if those matters have previously been the subject of representations raising soundness or legal compliance issues. SoCGs can also helpfully highlight matters that remain in contention, or the position regarding individual allocated sites.

43. If any new or updated SoCGs are to be prepared then they should, wherever possible, be completed and sent to the Programme Officer by **30 August 2024**. This will enable them to be published as examination documents so that other representors are aware of their contents before submitting their hearing statements.

### **Conduct of the hearing sessions**

44. The hearing sessions will be based on the identified matters, issues and questions as further clarified and refined by the agenda issued before the hearing sessions. Each hearing session will deal with these by way of a structured discussion which we will lead, taking an inquisitorial approach. There will be no formal presentation of cases or cross-examination. Participants may if they wish, bring professional experts with them, although this is not essential.
45. Discussion at the hearing sessions will focus on the issues that we need to hear further discussion about, to reach conclusions on the soundness and legal compliance of the Plan, and on any potential need for main modifications. We will make a few brief introductory comments on the issues to be covered and then invite individuals to respond to specific questions. We will have read all the relevant representations and statements beforehand and will expect other participants to have done so as well. The hearing sessions are not an opportunity to repeat a case already set out in written representations.

### **Hearing programme**

46. Updates to the hearing programme, if required, will be available on the Council's webpage. It is the responsibility of individual participants to check the latest timetable and to ensure that they are present at the correct time.
47. The hearing sessions will normally start at 9.30am (except on the first day) and 1.30pm each day. Short breaks will normally be taken at convenient points and a lunch break will take place between 12.30pm and 1.30pm. We will not sit beyond 5pm.

### **Omission sites**

48. Some representations are concerned with what are known as "omission sites". These are sites which have not been allocated in the Plan for development. However, our role is to examine the soundness of the submitted Plan. It is not part of our role to examine the soundness of sites that are not allocated in the Plan. Consequently, we do not propose to hold a hearing session dealing specifically with sites that have not been allocated in the Plan, or to discuss the merits of omission sites at other sessions.
49. Should it be the case that additional sites need to be included in the Plan (for example, because an allocated site is found to be unsound), we will look to

the Council to decide which alternative or additional sites should be brought forward for examination.

### **Site visits**

50. We will carry out site visits before, during, or after the hearing as necessary to inform our assessment of the soundness of the Plan. All site visits will be unaccompanied, unless it is necessary to go onto private land, in which case we will make the necessary arrangements via the PO.

### **Close of the examination**

51. The examination will close when our report is submitted to the Council. However, unless we specifically request them, no further representations or evidence will be accepted after the hearing sessions have finished. Late or unsolicited material may be returned.

### **Summary of the examination programme**

**16 August 2024** - Deadline to confirm with the PO whether you wish to exercise your right to appear at an examination hearing session

**30 August 2024** - Deadline for submission of statements of common ground

**20 September 2024** - Deadline for submission of hearing statements and any appendices by e-mail

**24 September 2024** – Deadline for receipt of paper copies of statements (in addition to e-mailed statements)

**15 October 2024** - Hearing sessions begin

### **Further information**

52. Further information about the preparation and examination of Local Plans is available as follows:

Relevant guidance – available from <https://www.gov.uk/guidance/local-plans>

Procedure Guide for Local Plan Examinations  
Short guide to taking part in local plan examinations  
National Planning Policy Framework  
Planning Practice Guidance, including the section on Plan-making

Relevant legislation – 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)



Louise Crosby and Elaine Worthington

INSPECTORS

23 July 2024