



Examination of the Darlington Local Plan

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Examination webpage: www.darlington.gov.uk/local-plan-exam

INSPECTOR'S NOTE NO. 1: GUIDANCE NOTE FROM THE INSPECTOR

Purpose

1. The *Darlington Local Plan* ("the Plan") was submitted for examination on 22 December 2020. I was appointed by the Secretary of State on 4 January 2021 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* (6th edition, November 2020) which is available via <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>.
3. Government advice about the implications of the coronavirus pandemic for local plan examinations, which will be updated regularly, is available at <https://www.gov.uk/guidance/coronavirus-covid-19-planning-inspectorate-guidance>.
4. I am likely to publish a provisional timetable for the examination, including provisional dates for hearing sessions, in the next few weeks. However, I will need to keep this under review having regard to changes to Government guidance and legislation relating to the pandemic.

Programme Officer

5. **Liz Sheard** is the Programme Officer for the examination. She is working under my direction and is independent of the Council. Her contact details are given above.
6. The main tasks of the Programme Officer are to act as the channel of communication between me, the Council and all representors; to liaise with all parties to ensure the smooth running of the examination; to organise the examination hearing sessions; and to oversee the publication of information and documents on the examination website.

7. Any procedural questions or other matters that you wish to raise should be directed to the Programme Officer.

Examination webpage

8. The examination webpages (link above) are hosted on the Council's website, but it is independent and all content should be agreed by me or the Programme Officer on my behalf. All documents for the examination, including the evidence base and the procedural material, will be published on the examination website.
9. Please regularly check the "latest updates" section of the website if you wish to be actively involved in the examination.
10. If you do not have access to the internet, please contact the Programme Officer so that alternative arrangements can be put in place.

Inspector's role

11. My task is to consider whether the Plan complies with the relevant legislation and is sound. The *National Planning Policy Framework* (NPPF) (paragraph 35) makes it clear that in order to be sound the Plan must be:
 - (a) **positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs;
 - (b) **justified** – an appropriate strategy taking into account the reasonable alternatives, and based on proportionate evidence;
 - (c) **effective** – deliverable over its period and based on effective joint working 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.
12. It is not part of my role to make improvements to the Plan, other than when these are essential to ensure that it is sound and legally-compliant.

The examination

13. 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 withdraw the plan. The same would apply if there is a failure of legal compliance which cannot be remedied.
14. At the end of the examination I will send a report to the Council setting

out my conclusions and recommendations. My 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.

15. The basis for my examination will be the Plan published for consultation on 6 August 2020¹.

Changes to the plan

16. The starting point for the examination is that the Council has submitted what it considers to be a sound Plan. 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 me; or
 - (b) as **additional modifications** made by the Council.
17. I can only recommend **main modifications** if they are necessary to make the submitted Plan sound and/or legally-compliant. Potential main modifications are likely to be proposed during the examination. Any potential main modifications will be subject to consultation before I formally recommend them, and are also likely to require further sustainability appraisal.
18. **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.

Representations made on the Plan

19. The Council has prepared a *Consultation Statement*² which includes details of the consultation that has taken place on the Plan, and a summary of the main issues raised in the representations along with the Council’s responses.
20. The Council advises that a total of 712 representations from 208 representors were made about the Plan in response to the regulation 19 consultation. All of these representations are available to view via the examination website, and a full set will be provided to me. I will take account of all of the representations made in response to regulation 19 consultation in my assessment of the soundness and legal compliance of the Plan.

Matters, issues and questions, and written statements

21. In due course I will publish the matters, issues and questions that will be the focus of the examination, including at the hearing sessions. At that time I will also publish guidance about written statements that may be

¹ CD01.

² PD01.

submitted in response to my questions along with the dates by which they must be received by the Programme Officer. I will also then confirm the dates of the hearing sessions.

Observing and participating at the hearings

22. All of the hearing sessions will be public events, and details of how they can be observed will be published nearer the time.
23. Only those who have made representations under regulation 20 (ie in response to the Plan published under regulation 19 for consultation in August 2020) seeking to change the Plan have a right to be heard (ie participate at a hearing session).
24. Written representations carry the same weight as those made orally at a hearing session. Participation at the hearings 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 or sessions relevant to your original representations.
25. When I publish the provisional hearing programme, all representors will be asked if they wish to exercise their right to be heard and a deadline will be set to respond. You must do this regardless of what you may have indicated in your representations to the Council. If you do not contact the Programme Officer by the specified date, it will be assumed that you do not wish to 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 hearings. However, I may invite additional participants if I decide that it would assist me in determining the soundness and legal compliance of the Plan.

Conduct of the hearing sessions

27. The hearing sessions will be based on the matters, issues and questions identified by me. They may involve myself and all or some of the participants physically attending a venue, or be held virtually online. This will be clarified in due course. Either way, each session will be a focussed discussion which I will lead, taking an inquisitorial approach based on the questions that I have published. There will be no formal presentation of cases or cross-examination. Participants may, if they wish, be represented by professional experts, although this is not essential.
28. The purpose of the hearing sessions is not to air representations or discuss all parts of the Plan. Rather, it is to allow me to focus on potential soundness issues that I need to ask specific questions about in order to reach a conclusion. For some parts of the Plan this will not be necessary once I have considered all of the evidence, representations and written statements.
29. Discussion at the hearings will therefore focus on the issues that I need to

hear more about in order to reach conclusions on the soundness and legal compliance of the Plan, and on any potential need for main modifications. I will make a few brief introductory comments on the issues to be covered and then invite the Council, and potentially other participants, to respond to specific questions. I will have read all the relevant representations and statements beforehand, and will expect other participants to have done so as well.

Omission sites

30. 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, my role is to examine the soundness of the submitted Plan. It is not part of my role to examine the soundness of sites that are not allocated in the Plan. Consequently, I 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.
31. If I decide that additional sites need to be allocated in the Plan to make it sound, I will look to the Council to decide which alternative or additional sites should be brought forward for examination.

Site visits

32. I will carry out site visits before, during, or after the hearings as necessary to inform my assessment of the soundness of the Plan. All site visits will be unaccompanied, unless it is necessary to go onto private land or there are other specific reasons that mean that I wish to be accompanied. The timing of any accompanied visits would have to take account of the guidance relating to coronavirus.

Close of the examination

33. The examination will close when my report is submitted to the Council. However, unless I specifically request them, no further representations or evidence will be accepted after the hearing sessions have finished.

William Fieldhouse

INSPECTOR
13 January 2021