

## **Examination of Newcastle upon Tyne Development and Allocations Plan 2015- 2030**

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MTP MRTPI

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### **Guidance Note**

#### ***Introduction***

1. This guidance note is intended to assist those who have made representations as part of the pre-submission consultation process and those who wish to appear in person. It contains procedural and other aspects of the Examination process.

#### ***The role of the Inspector***

2. The Inspector's role is to determine whether the Newcastle upon Tyne Development and Allocations Plan (the Plan) satisfies legal requirements under the 2004 Act and associated regulations, and whether the Plan is sound. As the Plan was submitted after 24 January 2019, the Examination will be focussed on the test of soundness as set out in paragraph 35 of the National Planning Policy Framework (the Framework) which was published in February 2019. The relevant soundness criteria are whether the Plan is:
  - a) Positively prepared - providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs<sup>1</sup>; 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 policies in this Framework.
3. The starting point for the Examination is the Plan as submitted, and that the Council submitted the Plan because it considers it to be sound. Those seeking changes must demonstrate why it is unsound by reference to one or more of the tests of soundness. The Council should rely on its evidence

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<sup>1</sup> Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 60 of this Framework.

collated during plan preparation to demonstrate that the Plan is sound. Nonetheless, the Council, and other interested parties, will have the opportunity to put forward suggested changes to the Plan during the Examination in order to address matters of soundness or legal compliance. I will take these suggestions into account.

4. I will consider all the representations made on the Submission Plan insofar as they relate to legal requirements or soundness. Unresolved issues concerning soundness or legal compliance may be addressed through discussion at the hearings and through consideration of the original written representations. I am not required to report on every point made. Furthermore, in some cases, the issues I identify may not have been previously raised in representations. My role is not to improve the Plan or to make it "more" sound but to determine whether it meets the tests of soundness as it stands. If an alternative version of a policy is put forward, I cannot recommend it as an improvement if the Plan is already sound.
5. Part of my role is to examine the soundness of sites that are allocated for development in the Plan as submitted, insofar as they are intended to meet the requirements of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne, adopted March 2015 (CSUCP). Those who have submitted representations to the effect that a site is unsound will be able to put their views to me during a hearing, if they make a request to do so. The Council will have the opportunity to respond. Sites that have been put forward for inclusion in the Plan, but not selected for allocation by the Council, are known informally as "omission sites". It is not part of my role to examine the soundness of omission sites, and, subject to the legal right to be heard (see paragraph 6 below), such sites will not normally be discussed in detail at the hearings. Should the situation arise that additional site(s) are needed (for example, because one or more of the allocated sites is found to be unsound), I will look to the Council in the first instance to decide which alternative site(s) should be brought forward for Examination.
6. Anyone can attend the hearings, however the ability to speak is not available to all but is limited to either those with a legal right or those specifically invited by me. Those that have made a valid representation seeking a change to the Submission Plan (an objection) have the right to make their case in person at the hearings, if they have indicated their wish to do so. It is important to stress however that written representations carry as much weight as evidence given at the hearings.
7. Those who have made representations supporting the Plan do not have a right to participate in hearings. The Council has submitted the Plan for examination and I expect it to be able to set out and justify its own position. It is not necessary for those who support the Plan to participate in hearings.

8. Through the Programme Officer, I intend to work with the Council and the Examination participants in a proactive, pragmatic and solution-orientated manner. Those taking part should aim to be cooperative and respectful. It is however important to stress that I would not be able to rectify non-compliance with the Duty to Co-operate. Any modifications that I recommend would be limited to those required to address matters of legal compliance or soundness. They would be known as "main modifications".
9. If main modifications are proposed by the Council, adequate public consultation will need to take place on them, so that interested parties' rights are not prejudiced. This would occur prior to my report being finalised. Where appropriate, main modifications may also need to be covered by a revised Sustainability Appraisal.
10. The Examination will close when my report is submitted to the Council. The potential outcomes of the Examination are:
  - a) If I find that the Council has complied with the Duty to Co-operate, and that the Plan satisfies the legal requirements and is sound - I would recommend that the Plan is adopted and give reasons for this.
  - b) If I find that the Council has complied with the Duty to Co-operate but that the Plan does not satisfy legal requirements and/or is not sound, but is capable of being resolved by main modifications - I would make such recommendations and give reasons for this.
  - c) If I find that the Council has not complied with one or more of the requirements listed in part a) and that such matters are not capable of being resolved by main modifications - I would recommend that the Plan is not adopted and give reasons for this.
11. My report is not binding on the Council, but it should amend the documents in the light of my recommendations before formal adoption. The Council would be able to make "additional modifications" to the Plan prior to adoption, provided these do not materially alter the policies or affect the soundness of the Plan, i.e. they are of a minor nature dealing with factual updates or typographical errors. This would be a matter entirely for the Council, I will not be considering such additional modifications during the examination and they will not form part of my report.
12. Further details of the Examination process are set out in the Planning Inspectorate's publication Examining Local Plans: Procedural Practice. See **Annex A** for details of how to access this document.

### ***The role of the Programme Officer***

13. The Programme Officer for the Examination is Miss Jayne Anderson. Miss Anderson can be contacted regarding the Examination using the contact details provided on the first page of the guidance note.

14. The main tasks of the Programme Officer are to act as an impartial officer of the Examination between myself and everyone involved; to liaise with all parties to ensure the Examination's smooth running; to ensure that all documents received are recorded and distributed; and to keep the Examination Library up to date. Copies of the Examination documents are mainly to be found on the Council's website (see below). A hard copy record will be held at the Council Offices prior to the hearings and at the hearing venue whilst they are in progress; anyone interested in viewing any of the documents in person should contact Ms Anderson beforehand in order to ensure availability.
15. During the Examination, you will be able to view the latest programme on the Council's website at <https://newcastle.gov.uk/planning-and-buildings/planning-policy/development-and-allocations-plan/dap-examination-page>
16. All procedural questions or other matters that you wish to raise with me prior to the hearings should be made through the Programme Officer.

### ***Examination hearings***

17. The hearings are part of the Examination into the Plan and will open on Tuesday 2 July 2019 at 10am. The hearings are likely to last until Thursday 4 July 2019 that week. Hearings will resume on Tuesday 9 July 2019 and are scheduled to end on Thursday 11 July 2019. A contingency session for any matters not completed in their allocated session is on Thursday 11 July 2019. Fridays will be reserved for site visits.
18. The venue for the hearings is the Old Library Building, Newcastle University, Newcastle upon Tyne, NE1 7RU. The morning sessions will start at 10am each day. Afternoon sessions will have an estimated start time of 1-2pm. Participants for afternoon sessions should arrive by 1pm. There will be a break for lunch and short breaks mid-morning and afternoon. The sessions will aim to finish by 5pm on each day, although they may continue slightly later if necessary.
19. I have identified matters which need to be explored during the Examination. These are set out in the Matters, Issues and Questions (MIQs) circulated with this guidance note. The MIQs also set out issues and specific questions that will need to be addressed. The hearings will allow me to explore these MIQs further with the Council and other participants, taking into account representations already submitted and written statements made in response to the MIQs. I will lead a structured discussion asking questions of the Council and allowing other participants to contribute as the hearing continues. Those participants indicating a desire to speak will be given an opportunity to do so. The hearings will be open to the public to observe but only invited participants will be able to speak. An agenda for each hearing will be circulated to participants in advance.

20. A provisional hearings programme has been produced and circulated with this guidance note. It is likely that the detailed programme will change closer to the hearings. While 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 matters. The participants for each matter will be those who made relevant representations on the Submission Plan and have confirmed to the Programme Officer that they wish to speak.
21. All those who wish to speak at the hearings should confirm this in writing or by e-mail to the Programme Officer **by 1pm on Friday 7 June 2019**, stating which matter or matters they wish to speak at (referring to the Matter number and/or the specific policy and quoting the respondent reference no. if known). 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 programme and list of participants will be confirmed before the hearings commence. Only those who indicate their wish to speak in advance of the hearings and make prior arrangements with the Programme Officer will be able to do so. This is in the interests of fairness to other participants and to assist with arrangements at the hearing itself.
22. It is not necessary for those attending to be professionally represented but a professional expert may act for you if you so wish. However, at each hearing there will normally only be space at the table for one representative of each group or organisation (apart from the Council, who have 2 seats), though there is no objection to the representative changing providing this is notified at the time. Legal representatives can take part as a team member, but not in a traditional advocate's role, as no cross-examination or opening/closing statements will normally be permitted other than by the Council and I. Depending on the number of requests to speak, for practical reasons it may be necessary to seek to identify representatives where common viewpoints are being expressed.
23. The purpose of the hearings is to concentrate on the matters that I need to hear about. It is not an opportunity simply to repeat a case already set out in representations. The discussion will be structured around an agenda which will be issued in final form shortly before the hearings. The emphasis will be on testing for soundness. I shall make a few brief comments on the matters I want covered, then invite individuals to make their contribution in response to the points I have raised. All participants will have an equal chance to speak.
24. There will be no formal presentation of evidence, as I will have read all relevant representations beforehand, and I will expect all the other participants to have done so as well. No more evidence can be submitted once the hearing has closed, except with my agreement.

25. The hearings will be inquisitorial, rather than adversarial. I shall endeavour to progress them in an effective and efficient manner, keeping a tight rein on the discussion and the time taken. In this way I aim to conduct short, focussed hearings to produce a short, focussed report.
26. The hearing venue is accessible. Any requests for assistance in attending the hearings should be made to the Programme Officer as soon as possible.

***The submission of statements and further material***

27. The Council should produce an individual written statement for each of the matters, addressing issues and questions set out in the MIQs. They should include specific references to supporting evidence where appropriate. The Council is asked to address key points raised in representations.
28. Other participants may, if they wish, submit written statements addressing the issues and questions set out for the hearings they are attending which are relevant to their representations. There is no need to repeat points already made in representations and participants may wish to rely on these earlier representations. Others who have made relevant representations but are not participating in the hearings may also submit statements addressing the MIQs. However, there is no need to repeat points already made. A separate statement should be produced for each individual matter.
29. If preparing statements, the representors should bear in mind that the Council has produced a schedule of what it considers to be additional modifications in the light of the representations. The schedule can be found on the Council's website. In some cases, this may satisfactorily address the comments or objections made. In addition, the Council has responded to the representations which may assist representors in understanding the Council's position. The schedules of representations by policy/person with the Council's responses are available on the Council's website.
30. Statements for the hearings should be succinct, concentrating on responding to the specific questions raised. There is no need to include extracts from the Plan, other examination documents or those in the public domain such as the Framework or Planning Practice Guidance. If referring to such documents, clear cross-referencing will suffice. Essentially, I need to know the following from those submitting further statements:
  - What particular part of the Plan is not legally compliant and/or unsound?
  - What legal compliance issue or soundness test(s) does it fail and why?
  - How could the Plan be made legally compliant or sound?
  - What is the precise change sought?
31. Statements should be no more than 3,000 words long, in A4 format and saved either as a Word or PDF document (no more than 20MB). A flexible approach will be taken to the length of the Council's statements where the

matters relate to numerous individual policies or questions. Separate statements should be submitted for each matter.

32. The written statements should be sent to the Programme Officer. For both the Council and other participants, the deadline for receipt of written statements for all matters is **1pm on Friday 7 June 2019** for both paper copies and electronic copies. This is a strict deadline which must be adhered to for the hearings to proceed as planned. The deadline applies to the receipt of both paper and electronic copies so paper copies will need to be posted in advance, 3 paper copies of any statements will be required. It should be made clear who is submitting the statement (quoting the respondent reference no. if known) and which matter it relates to.
33. Other than the statements referred to above, no further information or documents should be submitted to the Examination unless specifically requested. Any unsolicited items sent in will be returned to the sender.

### ***Statements of Common Ground***

34. Statements of Common Ground are welcome where these would be helpful in identifying points not in dispute, particularly with Duty to Co-operate bodies, thereby allowing the hearings to concentrate on key issues that require discussion. They could for example include: agreed wording of a suggested change to a policy, agreed factual information or areas or points of disagreement. Work on such statements should commence now with the aim of completing them in time to influence relevant hearing statements.

### ***Site visits***

35. I have familiarised myself with the area and have visited several sites. I intend to visit most sites and key locations in the Plan prior to the hearings. Further visits may take place during the rest of the Examination. My visits will generally be on an unaccompanied basis. However, if there is a need to make a visit accompanied by the Council and other interested parties, arrangements should be made via the Programme Officer with time set aside to do so on Friday 5 or 12 July 2019 as required.

### ***Closing the Examination***

36. The examination will remain open until my report is submitted to the Council. However, no further representations or evidence will be accepted after the hearing has closed, unless I specifically request it. Any late unsolicited material will be returned.

*Joanna Gilbert*

INSPECTOR

3 May 2019

## **Annex A - Sources of relevant documents and advice**

### ***The Council's website***

All documents and information for the Plan Examination are available on the Council's website at:

<https://newcastle.gov.uk/planning-and-buildings/planning-policy/development-and-allocations-plan/dap-examination-page>

If you do not have access to the internet, the documents and other information can be made available to view by arrangement through the Programme Officer, whose contact details appear on page 1 of this note.

### ***Relevant legislation***

- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Town and Country Planning (Local Development) (England) Regulations 2012 (as amended)

These documents can be searched for and found on:

<http://www.legislation.gov.uk/>

### ***Guidance from The Planning Inspectorate***

Examining Local Plans: Procedural Practice (June 2016 4th edition v.1)

The above document is available at:

<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>