

Newport Local Development Plan Examination: Guidance Notes for Participants

Archwiliad Cynllun Datblygu Lleol Dinas Casnewydd: Nodiadau Canllaw i Gyfranogwyr

Planning Inspector / Arolygydd Cynllunio
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Pre-Hearing Meeting:
10.00am on 18 February 2014
Council Chamber
Newport City Council
Civic Centre
Newport
NP20 4UR

Cyfarfod Cyn Gwrandawriad:
10.00am yr 18 Chwefror 2014
Siambr y Cyngor
Cyngor Dinas Casnewydd
Canolfan Ddinesig
Casnewydd
NP20 4UR

Hearing Sessions Commence:
10.00am on 1 April 2014
Council Chamber
Newport City Council
Civic Centre
Newport
NP20 4UR

Dechrau'r Archwiliad:
10.00am ar 1 Ebrill 2014
Siambr y Cyngor
Cyngor Dinas Casnewydd
Canolfan Ddinesig
Casnewydd
NP20 4UR

1. Introduction

- 1.1. These guidance notes have been prepared to assist those individuals and organisations who wish to be involved in the Examination into the soundness of the Newport Local Development Plan 2011-2026 ('the Plan'). The Plan was formally submitted to the Welsh Government on 20 December 2013 for independent examination as to its soundness, as required by Section 64 of the Planning & Compulsory Purchase Act 2004.
- 1.2. Following the initial stages of the plan preparation process, Newport City Council (the Authority) undertook public consultation on an earlier version of the Plan between 13 April and 28 May 2012. In the light of that exercise the Authority decided to make significant changes and to undertake new public consultation. Consultation on the Deposit Plan¹ now submitted for examination took place for a six week period commencing on 13 June 2013, in accordance with Regulation 17 of The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005. As part of this exercise the Authority wrote to all those who made representations at the earlier deposit stage, informing them that representations would not be automatically carried forward from the earlier consultation, and that any representation to be considered at the Examination should therefore be made afresh². A further consultation exercise was undertaken in respect of Alternative Sites proposed in the representations received for a six week period commencing on 6 September 2013.
- 1.3. The Authority considered all of the representations received before submitting the Plan for Examination. The Authority's Consultation Report³ summarises the substance of the representations and the Authority's response. It has not formally resolved to make Focused Changes to the Plan for consideration as part of the Examination. However, it has put forward a limited list of suggested discrete changes⁴, in response to some of the representations received. These will be considered by the Inspector as part of the Examination into the Plan's soundness.
- 1.4. Only those who made representations against the Plan at the Deposit stage or the Alternative Sites stage are involved in the examination process; and only those who consider the Plan to be unsound and seek changes in order to make it sound normally take part in the oral Hearings.

2. Inspector and Programme Officer

- 2.1. The Ministers of the Welsh Government have appointed Planning Inspector Alwyn Nixon BSc (Hons) MRTPI to hold the independent examination into the soundness of the Newport Local Development Plan.
- 2.2. The Programme Officer for the Examination is Sue Hennah. She is acting independently of the Authority and under the Inspector's direction. She is responsible for organising the programme of hearings, maintaining the Examination Library, recording and circulating all material received, and assisting the Inspector with procedural and administrative matters. Sue will advise on any programming and procedural queries. Any matters which the Authority or other participants wish

¹ Referred to by the Authority as the 'Revised Deposit Plan', to distinguish from the earlier deposit plan on which consultation was undertaken in 2012.

² Examination Document SD24

³ Examination Documents SD12-SD33

⁴ Examination Document SD6

to raise with the Inspector should be addressed to the Programme Officer. Her contact details are as set out on the front cover of these notes.

3. Purpose of the Examination

- 3.1. The purpose of the Examination is to examine the soundness of the Plan. It is important to note that the term 'Examination' covers the whole process of examining the Plan, from the time of submission to the Welsh Government to receipt of the Inspector's report by the Authority. The Inspector's role is to consider whether the Plan meets the requirements of Sections 62-64 of the 2004 Act and associated regulations and whether it complies with paragraphs 4.34-4.35 of Local Development Plans Wales: Policy on Preparation of LDPs, December 2005 (LDP Wales). These requirements fall into three broad groups: whether procedural requirements have been met; whether the Plan is consistent with other relevant documents; and whether the Plan is coherent and effective. The Authority should rely on the evidence used in preparing the Plan to demonstrate that it is sound. Those seeking changes to the Plan have to demonstrate why the document is not sound and how the suggested changes would make it sound.
- 3.2. The process of examining a local development plan is different from the previous process of considering objections to a unitary development plan or local plan.
- 3.3. The starting point for the Examination is that its purpose is to examine whether the submitted Plan is sound.
- 3.4. In examining soundness under the new system, the Inspector has to consider the representations made to the submitted Plan, but only insofar as they relate to the tests of soundness set out in LDP Wales. The Inspector is not required to determine and report in relation to each and every point made in every objection, but to use the representations as the starting point in considering whether the Plan is sound.
- 3.5. The Inspector also has to exercise his duties under Section 39 of the 2004 Act with the objective of contributing to the achievement of sustainable development. At the end of the Examination process the Inspector will produce a binding report containing recommendations and the reasons for the recommendations.
- 3.6. An important element of the new system is that the Hearing sessions of the Examination are intended to be an inquisitorial process under the Inspector's direction, rather than the previous more adversarial approach between local planning authority and objector. The process of examining the soundness of the Plan will generally be conducted as a series of round-table sessions led by the Inspector and addressing particular topics or issues, rather than individual representations. The topics identified for discussion arise from the questions as to the soundness of the Plan raised by the representations made or identified by the Inspector.
- 3.7. National policies will not be debated as such, but the Examination will consider the application and implications of such policies where such matters arise from the particular policies and proposals within the Plan. Throughout the Hearing sessions the focus will be on whether the submitted Plan is sound. It is not the purpose of the Examination process to recommend changes to a Plan that would further enhance its soundness where it is found to be sound in the first instance.
- 3.8. At the end of the Examination the Inspector will submit his report to the Authority with his conclusions and recommendations on the actions or changes needed as regards the soundness of the Plan. These recommendations are binding on the

Authority and any recommended modification to the Plan must be made before it is adopted by the Authority. The following publications provide the procedural framework for the conduct of the Examination:

- Local Development Plans Wales: Policy on Preparation of LDPs, Welsh Assembly Government, December 2005.
- Local Development Plan Manual, Welsh Assembly Government, June 2006.
- Part 6, Sections 62-72 of Planning & Compulsory Purchase Act 2004.
- Town and Country Planning (Local Development Plan) (Wales) Regulations 2005.
- Local Development Plans: Examining Local Development Plans: Procedure Guidance, The Planning Inspectorate Wales, November 2009 (http://www.planningportal.gov.uk/uploads/pins/ldp_procedure_guidance_eng.pdf).
- Frequently Asked Questions on the Examination of Development Plan Documents [Planning Inspectorate].

3.9. Participants should familiarise themselves as appropriate with the relevant parts of the above. Most of the guidance to procedures is set out in LDP Wales, the LDP Manual and the Planning Inspectorate's procedure guidance. These documents are available to view on the LDP Examination website: <http://www.newport.gov.uk/ldp> or in the Examination documents library.

4. The Pre-Hearing Meeting

- 4.1. The Pre-Hearing Meeting (PHM) will take place on 18 February 2014 in the Council Chamber at the Civic Centre, Newport, South Wales NP20 4UR. The purpose of the PHM is to discuss procedural and administrative matters relating to the management of the Examination, including the programme for the hearings, the matters to be examined and related questions; the running order and participants; the methods of dealing with representations; the timetable for submitting any additional material that may be required, and any other relevant matters. The merits of the Plan and the representations will not be discussed at the meeting, although the Inspector may identify issues or topics where he feels that additional information is needed to assist him in considering whether or not the Plan is sound in a particular respect.
- 4.2. At the PHM, the Inspector will ask the Authority to confirm that the Plan has been prepared in accordance with the statutory procedures under Section 64(5)(a) of the 2004 Act and associated regulations, and is supported by a Sustainability Appraisal. He will also clarify the position in respect of the Community Involvement Scheme and the Delivery Agreement.
- 4.3. Although the PHM is open to all who wish to attend, this note is intended to provide sufficient background information for those who are unable or do not wish to be there. A note of the PHM, along with the Programme for the Hearing sessions and the Matters and Issues for examination at each session will be published on the LDP Examination website and circulated to all those who have made representations shortly after the PHM. The Authority has advertised the start of the Hearings, which are due to commence on 1 April 2014.

5. Representations on the Plan

- 5.1. Under Regulation 22(2)(iv) of the LDP Regulations, the Authority has stated that some 990 duly made representations (including three petitions containing 14,442 signatures in total) were received following the publication of the Deposit Plan.

- 5.2. 965 duly made representations were made by 352 representors at the consultation stage on Alternative Sites.

6. Methods of considering representations

- 6.1. There are essentially two ways in which representations on the Plan will be considered:
- Written representations – based on the original representation, and the Authority's response on the matters raised. The Inspector may also seek additional information by way of clarification. Most representations will be considered by this method. Written representations are not discussed at the hearings and attendance at the Hearing sessions is not necessary.
 - Oral representations – where representors have indicated that they wish to have an oral hearing, relevant matters in the representations will be dealt with at a Hearing session of the Examination, where the Authority and other participants debate the main points on the key issues identified by the Inspector in a structured and informed discussion directed by him.
- 6.2. The Inspector will have equal regard to views put orally or in writing. Some respondents have not stated a preference in terms of the method they wish their representation to be considered; unless invited to a Hearing by the Inspector, only those representors who have stated a wish to appear in person will be invited to participate in the Hearing sessions. Attendance at the Hearings will only be helpful if participants are able to contribute in terms of evidence as to the Plan's soundness. Only those parties seeking specific changes to the Plan are entitled to participate at the Hearing sessions of the Examination, and there is no need for those supporting or merely making comments on the Plan to attend.

7. Procedure at the Hearing Sessions of the Examination

- 7.1. The Hearing sessions of the Examination will commence at 10.00 am on Tuesday 1 April 2014 in the Council Chamber at the Civic Centre, Newport, South Wales NP20 4UR. Subsequent sessions will normally start at 10.00am with a break for lunch at about 1.00pm, and should finish at about 5.00pm. A short break will be taken at convenient points in the morning and afternoon. The Hearing session dates are set out in the accompanying sessions programme and are likely to take around 6 weeks to complete.
- 7.2. The focus in the Hearing sessions will be on the soundness of the Plan, having regard to the tests of soundness concerning procedural requirements and the Plan's consistency, coherence and effectiveness. A separate Hearing session will be held for each of the main topics outlined in the programme. The sessions will normally take the form of a roundtable session, where the Authority and those who wish to be heard discuss the key points identified. This will provide a means of examining the issues by way of a discussion led by the Inspector. Participants may bring professional representatives with them to speak on their behalf and may ask questions about the evidence, but there will be no formal presentation of evidence, cross-examination or formal submissions. Participants do not need to have legal representation. The Authority will not be legally represented at the Hearing sessions, except where legal representation of others makes this necessary.
- 7.3. At the start of each session the Inspector will introduce the proceedings and refer to the published agenda with the points for discussion on each topic. The discussion

will focus on the issues and matters identified in the agenda and the questions posed. The Inspector will begin by making a few brief comments on the matters to be covered, before inviting participants to make their contribution to the debate. The session will progress under the Inspector's guidance, drawing participants into the discussion in such a way as to enable him to gain the information necessary to come to a firm conclusion on the relevant issues. At the end of each session, participants will have the opportunity to briefly sum up the main points of their arguments if they wish.

- 7.4. The Hearings will be conducted on the basis that those taking part have read the relevant representations, statements and associated documentation, although participants will be able to refer to and elaborate on relevant points as necessary. Documentation relating to each Hearing session will be publicised on the Examination website beforehand; individuals requiring additional assistance should contact the Programme Officer.
- 7.5. The Inspector will endeavour to progress the Hearing sessions in an effective and efficient manner, keeping a firm hand on the discussions and time taken. As part of that process, he will aim to minimise the amount of material produced that is necessary to come to informed conclusions on the issues, and will seek to avoid repetitious oral presentation or discussion which does not focus on the evidence.

8. Examination Programme

- 8.1. The Hearings part of the Examination is likely to last around 6 weeks.
- 8.2. Every effort will be made to keep to the programme, but late changes may be unavoidable. Priority will be given to starting the debate on each matter at the appointed time, but on occasions it may be necessary to extend the debate in the afternoon session. The Programme Officer will inform the participants of any late changes to the timetable, but it is the responsibility of the participants to keep themselves up to date with the arrangements and programme.

9. Preparation and submission of further material

- 9.1. Documents used as a foundation for the LDP, such as relevant policy and guidance, background papers, existing development plan and other policy documents are available on the Examination website: <http://www.newport.gov.uk/ldp>.
- 9.2. Participants should ensure that any additional documents they intend to refer to are added to the Examination Documents Library, and they should arrange for such documents to be sent to the Programme Officer (three copies will be required). Any further written statements or other material requested by the Inspector will be added to the Library as it is submitted.
- 9.3. The representations already made at the Deposit or Alternative Sites stage should have included all the points, documents and evidence intended to substantiate representors' cases. Participants should therefore not submit any further material based on the original representations.
- 9.4. Any further written submissions sought by the Inspector should specifically address the Matters and Issues for Examination identified by the Inspector. Where further submission by way of response to the matters and issues identified is necessary, this must be submitted no later than **TWO WEEKS** before the relevant hearing session.

- 9.5. Submissions should focus on the issues / matters identified by the Inspector and on the tests of soundness and demonstrate why the Plan is sound / unsound / how the change sought would make it sound. Statements should clearly indicate the relevant policy / paragraph / allocation in the Plan and the relevant soundness test(s). All submissions should be as concise as possible, avoiding unnecessary detail or repetition and referring to the part(s) of the evidence base at issue. There is no need for lengthy quotations from the Plan or other sources of policy guidance – a clear reference to the relevant part / paragraph will suffice. Nonetheless, it is vital that all evidence supporting the submission is included, since the Hearings are not the place for new points or evidence to be presented for the first time.
- 9.6. Participants should attempt to reach agreement on factual matters and statistics before the Hearings start and everyone is encouraged to maintain a dialogue with the Authority and other participants in advance of the Hearings. Brief position statements and statements of common ground can be a useful way of focusing the issues / matters in dispute, and are encouraged as a means of achieving this.
- 9.7. The Programme Officer will require 3 copies of all statements submitted (together with an electronic copy if available). They should generally not need to be longer than 3,000 words for each Hearing session topic; the guiding principle should be that statements should be as concise and to the point as possible.
- 9.8. Supporting technical evidence should be restricted to appendices and clearly related to the case. Any supporting material should be limited to that which is essential. Extracts from documents that are already in the Examination Library are not necessary. There is no need for summary statements. Statements should be on A4 paper, punched with two holes for filing, and unbound. Plans or diagrams should fold down to A4 size. All statements should be marked with the respondent's number.
- 9.9. All participants should adhere to the timetable for submitting further statements. Late submissions and additional papers are unlikely to be accepted at the Hearing session, since this can cause delay, disruption and result in unfairness, and may lead to an adjournment of the hearing. If material is not received by the deadlines stated, the Programme Officer will assume that no representations are to be made by that participant.

10. Availability of information

- 10.1. The Programme Officer will maintain an Examination Library in the Programme Office and online at the Examination website. This will contain copies of the Plan and associated documents, all representations, the Policy Context and Evidence Base Documents and further representations and statements, as received. During the Hearings the Library will be under the supervision of the Programme Officer, who will assist anyone wishing to see or copy any document.
- 10.2. The Programme Officer will maintain lists of all documents submitted. Lists of documents, the up-to-date Programme for the Hearing sessions of the Examination and other relevant material will be on display on the Examination notice board at the venue. Relevant information will also be included on the Examination website. Anyone requiring assistance or special facilities for disability or other reasons should contact the Programme Officer beforehand to enable appropriate arrangements to be made.

11. Site visit arrangements

- 11.1. As part of the Examination the Inspector will carry out a familiarisation tour of the area, visiting locations referred to as necessary on an unaccompanied basis. If there are exceptional reasons necessitating an accompanied visit, participants should discuss this with the Programme Officer.

12. Close of the Examination

- 12.1. The Examination will remain open until the Inspector's report is submitted to the Authority. However, the Inspector will not accept any further representations or evidence after the Hearing sessions have finished except at his specific request. Any late or unsolicited material is likely to be returned.

13. Submission of Inspector's Report to the Authority

- 13.1. After the Examination has closed, the Inspector will submit his report, with binding recommendations, to the Authority. The date of submission will largely depend on the content, extent and length of the Examination and the Inspector will confirm the likely date once the Examination Hearing sessions have been completed.