

Independent Examination of the Breckland Local Plan Partial Review

Guidance Note from the Inspector

Janet Wilson BA(Hons) BTP MRTPI DMS

Inspector appointed by the Secretary of State

Date: 10 March 2023

Introduction

1. This Guidance Note provides further information on the procedural and administrative arrangements for the examination of the Breckland Local Plan Partial Review. The Review was submitted for examination on 29 November 2022 by Breckland Council.
2. **Note** - This guidance should be kept for reference throughout the Examination. It should be read in conjunction with the **Procedure Guide for Local Plan Examinations** – The Planning Inspectorate (2022) (7th Edition) [available at <https://www.gov.uk> or from the Programme Officer] and with the attached **Schedule of Matters for Discussion and Outline Programme of Hearings**.
3. Document References are to the Examination Library List which can be viewed on the Examination web page or in hard copy upon request through the Programme Officer.

Examination website

<https://www.breckland.gov.uk/planning-policy/examination-library>

Items in bold italics are for particular note or action.

The Role of the Planning Inspector

4. The Local Plan Review is being examined by Janet Wilson BA (Hons) BTP MRTPI DMS who is a Chartered Town Planner and the Inspector appointed by the Secretary of State under Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) to carry out the Examination of 'The Breckland Local Plan Partial Review' Development Plan Document 2022 (herein called the Plan). She will at all times aim to work with everyone involved in the examination in a positive and pragmatic manner.

The Role of the Programme Officer

5. **The appointed Programme Officer is Nikki Clarke.** The Programme Officer is an independent Officer who is responsible for receiving, recording, and distributing the examination materials, maintaining the examination library and organising the hearing sessions. Communication between the Inspector and representors is also handled by the Programme Officer, who can be contacted at:

**Ms N Clarke
Programme Officer
Elizabeth House
Walpole Loke
Dereham
Norfolk
NR19 1EE**

Contact Tel Number 07901 861825
Email programme.officer@breckland.gov.uk

6. Should any representors not have access to the internet, please contact the Programme Officer so that alternative arrangements can be made.
7. The Programme Officer's main tasks are to liaise with all parties to ensure the smooth running of the Examination, to ensure that all documents received are recorded and distributed, to maintain the Examination library (mainly in electronic form) and to assist me with procedural matters. **She is your first point of contact.** During the progress of the Examination the Programme Officer will be in regular contact with participants and will provide updated versions of the Programme should circumstances change; these will also be published on the examination website. Participants are encouraged to maintain regular contact with the Programme Officer leading up to their appearance at a hearing session and, where possible, to view the regularly updated programme on the Examination website.
8. Participants who have concerns about ease of access in attending the Examination venue due to mobility issues, or have other concerns, should contact the Programme Officer as soon as possible so that any necessary arrangements can be made. **A detailed location map of the venue and travel directions will be available on the Examination website.** Any procedural questions or other matters that anyone wishes to raise with me prior to the Hearings should be made through the Programme Officer.
9. Participants should be aware that the format of the hearing sessions will be subject to the latest legislation and Government guidance on Coronavirus ('COVID-19') available at the time. If that legislation and/or guidance changes, procedures may need to be changed.

The Purpose and Scope of the Examination

10. The Secretary of State has appointed the Inspector to examine the soundness and legal compliance of the Plan and whether it meets the requirements of the Planning and Compulsory Purchase Act and associated Regulations.
11. The Partial review of the Plan to be examined comprises the amended policy wording to Policy INF 03 as set out in the Councils letter of 29 November 2022 and as consulted upon in the Submission Version, Regulation 19 Consultation of September 2022.
12. The purpose of the Examination of the Plan is to determine whether the Partial Review satisfies legal requirements under the 2004 Act and associated regulations, whether the Council has complied with the duty to co-operate and whether the Partial Review of the Plan is sound. To be sound the Review must be positively prepared, justified, effective and consistent with national policy.

13. The Framework requires that Local Plans are prepared in accordance with the Duty to Cooperate, meet legal and procedural requirements and are 'sound'. As part of this process, the Inspectors will need to determine whether or not:

- The Council has complied with the Duty to Cooperate under Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended).
- The Local Plan has been subject to an adequate Sustainability Appraisal.
- The Local Plan has been prepared in accordance with the Local Development Scheme and Statement of Community Involvement.
- Where relevant the requirements of the Conservation of Habitats and Species Regulations 2017 have been complied with, having regard to relevant national policy and guidance, and if an Appropriate Assessment has been carried out where necessary.
- Relevant publicity and procedural requirements have been met.

14. In terms of 'soundness', the Framework states that Plans are 'sound' if they are:

- **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
- **Justified:** an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence.
- **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.
- **Consistent with national policy:** enabling the delivery of sustainable development in accordance with the policies in the Framework.

15. The starting point for the Examination is the assumption that the Council has submitted what it considers to be a sound plan.

16. There are three possible outcomes to the Examination:

1. the Council has complied with the duty to co-operate, the Plan satisfies legal requirements and is sound;
2. the Council has not complied with one or more of the above requirements and is therefore unsound; or
3. the Council has complied with the duty to co-operate but the Plan does not satisfy legal requirements; and/or is not sound but could be made to be so by changes.

17. Following the close of the Hearings I will prepare a report for the Council. The Council has requested that I recommend any Main Modifications necessary to make the Plan sound/legally compliant. The report will deal **only** with broad issues and the focus will be on the soundness and legal compliance of the Plan, not on individual representations. It will be for the Council to make any arrangements for the publication of the report.
18. At this stage there are only two means by which changes can be made to the Partial Review of the Plan submitted for Examination:
 - (1) Main Modifications recommended by the Inspector; and
 - (2) Additional Modifications¹ made by the Council on adoption.
19. I can only recommend Main Modifications to rectify issues of soundness/legal compliance. Main Modifications are changes which, either alone or in combination with others, would materially alter the Plan or its policies. Any potential Main Modifications must be subject to consultation (and in some cases further Sustainability Appraisal might also be needed).
20. Additional Modifications are those changes which do not materially affect the single policy which are under review. They are to be made by the Council on adoption. The Council is accountable for any such changes and they do not fall within the scope of the Examination. My focus will be on Main Modifications required or necessary to make the Partial Review of the Plan sound.
21. It is possible that further changes may be proposed during the Hearing sessions and I will ask the Council to keep an up to date schedule of the Main Modifications during the Examination.
22. The Matters Issues and questions accompanying this note will form the basis of the discussion at the Hearing sessions. If you have any comments on this list (for example, because you feel there may be a significant omission), you should contact the Programme Officer as soon as possible.

The Programme for the Hearings and the Matters for Examination

23. The Hearings part of the Examination will open at **10.00am** on **Tuesday 18 April 2023**. The Hearing sessions will be held in

Dereham Memorial Hall,
62A Norwich Street,
Dereham
NR19 1AD

¹ S23(3)(b) of the PCPA 2004 "... if the additional modifications (taken together) do not materially affect the policies ..."

Key Dates	
Advise Programme Officer of Participation (no later than)	21 March 2023
Submission of a Hearing Position Statement (no later than)	31 March 2023
Opening of Hearing Sessions	Tuesday 18 April 2023
Further Hearing sessions	Wednesday 19 April 2023 Thursday 20 April (Reserve Day)

24. My initial thoughts as to the Matters, Issues and Questions for discussion are detailed in the accompanying document. However, the precise Issues and Questions which need to be discussed at the Hearings may change, in the light of the submitted statements and any other evidence.
25. The Hearing sessions will focus on the Matters, Issues and Questions which I have identified, assisting me to produce a short, focused report. The Council's consultation statement and all representations received are available on the examination website.
26. It is the responsibility of individual participants to check the progress of the Hearings either on the Examination website or with the Programme Officer, and to ensure that they are present at the right time.

Further statements based on Inspector's Matters, Issues and Questions

27. Any representor may submit a further statement in support of their original representation in advance of the Hearings. It **should not** repeat the initial submissions and, if a further statement is submitted it should address **only** the Matters, Issues and Questions that I have identified and should be **limited to those questions directly related to the scope of the original representation**. There is no need to re-state points already made but neither should wholly new arguments or important information, which ought to have been provided during the consultation, be put forward. A separate statement should be provided for each issue addressed.

28. Oral and written representations carry equal weight, therefore there is **no requirement** to submit a further statement and you may rely on your original representation if you wish to do so.
29. All statements should be sent to the Programme Officer **by close of business on 31 March 2023 in electronic form**. No new evidence or documents should be submitted at the Hearings or afterwards unless specifically requested by the Inspector.
30. It would be helpful to me if statements focused on:
- What aspect of the Partial review is unsound?
 - Which soundness test of those set out in the Framework does it fail?
 - Why does it fail (probably summarising the key parts of your original representation)?
 - How can the Plan be made sound?
 - What is the precise change/wording that you are seeking?
31. Appendix A sets out the requirements for the presentation of all statements. Statements should be concise and focused. Any not conforming to the format and deadline will be returned. Please note the **3,000 word limit**.
32. Statements are required from the Council, setting out its responses to the Matters, Issues and Questions, explaining why it considers the Plan to be sound in these respects. Whilst there is no necessity to deal directly and in detail with all representations, the Council may wish to respond to any representations that it feels are of particular significance or concern. Because of this, the Council's statements are not subject to the 3,000 word limit; nevertheless, they should still be concise. In addition, its statements should be submitted within the same timescale as others.
33. I may in due course raise additional questions. Such questions, and any answers will also be available in the same place. If as a result of these exchanges it becomes clear that certain matters are no longer in contention, the Hearings programme may be adjusted, and participants advised accordingly.
34. If any Representor considers that an additional item is required, this should be raised with the Programme Officer at the earliest opportunity.

Statements of Common Ground

35. Where relevant Statements of Common Ground, agreed between two or more hearing participants, will be welcome where they would help to identify points not in (or remaining in) dispute, and so enable the Hearing to concentrate on the key issues that need further discussion. At the very latest, Statements of Common Ground should be submitted by the published deadline together with the statements to which they are relevant.

The Hearing Sessions

36. The Hearing sessions will start at 10.00am on the first day and at 9.30am on subsequent days. The Hearing sessions will continue through the day with breaks as appropriate. Afternoon sessions will normally begin at 2.00pm and finish at about 5.00pm. Please inform the Programme Officer if you have any time constraints. The format will be that of a structured, focussed discussion which I will lead. Most Hearings will have a number of participants and will follow a round table format.
37. Representations received in writing carry equal weight to any oral contributions made during the Hearing Sessions. For representors who do not wish to attend the Hearings or submit further written material, I can confirm you need take no further action and your written comments will remain a consideration for me throughout the Examination process.
38. Representors who wish to appear at the Hearing Sessions and participate in the discussions should notify the Programme Officer of their intention to do so by **21 March 2023** in doing so representors should indicate which Matter(s) they wish to participate in. It is not necessary to attend the Hearings if you agree with the Council and support the Plan because the Council will effectively be representing your views. Only those who have made representations relevant to making the Partial Review of the Plan sound or legally compliant have the right to participate and speak, but the Hearings will be held in public and open to all those who wish to attend and observe.
39. Before the Hearings I will have read all the Statements submitted (by the deadline) in response to my questions on the issues to be heard at that session. I will assume that all other participants will have read the relevant submissions. Those participating may bring professional advocates with them, although there will be no formal presentation of evidence or cross-examination. There will be opportunities for respondents to ask questions of the Council and other respondents, and vice versa. I will lead these discussions.
40. **Agendas setting out the topics for discussion will be published on the website in advance of the Hearings.** Generally, only one seat will be available at the table for each participant, but a hot-seating arrangement will be acceptable. Where a number of participants share similar viewpoints, it will be helpful if a spokesperson is appointed.
41. **Please note that only those seeking changes who have made representations relevant to the discussion of an issue at a Hearing session, and have indicated that they want to participate, will be permitted to speak.**
42. When invited to take part in a Hearing session, participants on arrival are asked to find their nameplate and take their place at the table. **During the**

discussion, the nameplate can be stood on end to indicate a wish to speak.

43. Representors are requested to keep in touch with the Programme Officer or the Council Examination web page regarding the programme, which may be subject to change.
44. Please let the Programme Officer know as soon as possible if you have any specific needs in relation to attendance and participation at the Hearing sessions. Anyone not involved in the Hearings are welcome to attend as observers.

Dealing with sites at the Hearing sessions

45. Sites that have been mentioned by representors but are not within the plan, 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, such sites will not normally be discussed in detail at the Hearing sessions.

Site visits

46. At the current stage and given the content of the Partial review I do not consider it necessary to my assessment of the soundness of the Plan to visit any particular sites within the plan area.

Examination Programme

47. Please be alert to the key dates listed above (after paragraph 23).

Closing the Examination and the Inspectors Report

48. Following the hearing sessions, the relevant findings will be set out in the Inspectors' Report, or in some cases, through Interim Findings. The Report will be sent to the Council and will set out the conclusions, and where necessary, any Main Modifications required to make the Plan sound and/or legally compliant.
49. The examination will remain open until the Report has been submitted to the Council. During this time no further written submissions or evidence will be taken into account unless specifically requested.
50. Further information about the preparation and Examination of Local Plans can be found in the national Planning Practice Guidance <https://www.gov.uk/guidance/plan-making> and the Planning Inspectorate's Procedure Guide for Local Plan Examinations February 2022 (7th Edition) <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>

Janet Wilson - Examination Inspector

Appendix A – Format for Statements

- A1. Statements should be no longer than is necessary to deal with the subject matter, and in any event must contain **no more than 3,000 words**. This limit will be strictly applied. Statements should address the issues and questions relevant to the content of your original representation. Any plans, diagrams or statistical tables should be attached as Appendices (see below). **An individual statement should be provided for each Matter being addressed.**
- A2. All submissions should be succinct, whether main Statements or Appendices. They should avoid unnecessary detail and repetition of the original representation and should not duplicate or contain extracts from any publication already before the Examination, such as the evidence base and nationally available Government guidance, which may be among the Examination Documents on the Examination website – a paragraph or page reference will suffice. It is the quality of the reasoning that carries weight, not the bulk of the documents.
- A3. Electronic submission of statements is encouraged. This should be in Word or PDF format and should be emailed to the Programme Officer for the Examination website.
- A4. Statements should be prepared to enable them to be printed on A4 sized paper. Any photographs should be submitted in A4 format and should be clearly labelled and annotated.
- A5. Appendices should also 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. Any supporting material should be limited to that which is essential and not contain lengthy extracts from any publication that is already before the Examination.
- A6. Separate statements should be provided for each Matter addressed and clearly numbered, with the relevant Issue and Question numbers clearly identified. **Please do not combine responses to multiple matters within a single submission.**
- A7. All participants should adhere to the timetable for submitting Statements. Late submissions and additional material are unlikely to be accepted on the day of the relevant Hearing session since this can cause disruption and result in unfairness and might result in an adjournment of the Hearing. If material is not received by the deadlines detailed below, it will be assumed that you are relying on your original representations.
- A8. All Statements and any supporting material should be received by the Programme Officer by **5pm on 31 March 2023**

A9. Aside from Hearing Statements no other written evidence will be accepted, unless I specifically request it. The Hearing sessions should not be used to introduce new evidence or arguments.