

NORTH ESSEX AUTHORITIES

Strategic (Section 1) Plan

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To:

Emma Goodings, Head of Planning Policy & Economic Development, Braintree District Council

Karen Syrett, Place Strategy Manager, Colchester Borough Council

Gary Guiver, Planning Manager, Tendring District Council

21 October 2019

Dear Ms Goodings, Ms Syrett and Mr Guiver

North Essex Section 1 Plan Examination

1. Thank you for your letter of 8 October 2019 in which you make some suggestions about arrangements for the further hearing sessions that will be held as part of the continuing examination of the Section 1 Plan. I have also been considering how the further hearings can be organised most effectively and your suggestions are helpful in this regard.

Subject matter for the further hearing sessions

2. As stated in my Explanatory Note [IED/016]¹ which accompanied the Technical Consultation, the further hearing sessions will focus mainly on those aspects of the Section 1 Plan and its evidence base which I identified in my post-hearing letter of 8 June 2018 [IED/011] as requiring significant further work. However, they may include other topics as necessary to inform my assessment of the soundness and legal compliance of the plan.

¹ All references in square brackets are to documents that can be found on the examination website:
https://www.braintree.gov.uk/info/200643/section_1/1065/section_1_examination_publication_local_plan

3. In your letter you have identified most of the topics that will need to be discussed. I would also expect to discuss plan strategy (as part of the discussion on sustainability appraisal) and the North Essex Authorities' [NEAs'] suggested amendments to the Publication Draft Section 1 Plan [EB/091]. I also envisage a discussion on whether or not there has been a meaningful change in the housing situation since June 2018, with regard to the implications of Unattributable Population Change for housing need in Tendring.
4. Other topics may need to be added when I have finished reading and considering all the comments on the additional evidence base documents.

Further clarification questions

5. I may have further questions of clarification for the NEAs arising from the comments that have been made on the additional evidence base documents. I would like to have the opportunity to put any such questions to the NEAs, as early clarification should save time later in the examination. Similarly, if I have questions of clarification for other participants it would be helpful for them to be answered at an early stage wherever possible.
6. I will arrange for the answers to any such questions of clarification, and any additional documents provided with them, to be published on the examination website by the time my matters, issues and questions are published (see below).

Structure for the further hearing sessions

7. I agree that programming the further hearing sessions on a thematic basis is sensible and I will take your suggested themes into account when deciding on the structure for the hearings. As you will appreciate, I will also need to take other factors, such as the length of time needed to discuss each topic and the number of invited participants, into account when deciding on the allocation of topics to hearing days.
8. I anticipate that it may also be necessary to hold a technical seminar on viability during the further hearing sessions, given the volume of evidence on this topic, involving a range of methodologies and assumptions. The purpose of a technical seminar is explained in the Planning Inspectorate's *Procedure Guide for Local Plan Examinations*² as follows:

If a plan raises complex technical issues, the Inspector may decide to hold a technical seminar. The technical seminar will not test the evidence: that is the role of the hearing sessions. The purpose of the technical seminar is

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/813316/Procedure Guide for Local Plan Examinations June 2019 - Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/813316/Procedure_Guide_for_Local_Plan_Examinations_June_2019_-_Final.pdf)

to provide the Inspector and other participants with a clearer understanding of the methodology and assumptions underpinning the technical evidence, thus saving time during the hearings.

If a technical seminar is required, the parties presenting the technical evidence will be asked to prepare the necessary explanatory material. The material will be circulated to the participants who have been invited to attend the relevant hearing session(s). Those participants may participate in the technical seminar and it will be open to anyone to observe. It should be publicised in a similar manner to the hearing sessions.

It will be appropriate for participants to ask questions of clarification during the technical seminar, but discussion of the implications of the technical evidence for the soundness of the plan should only take place at the relevant hearing session(s).

Matters, issues and questions and further hearing statements

9. I will be issuing matters, issues and questions [MIQs] to guide the discussion at the further hearings. While the context for the MIQs will remain the overall soundness and legal compliance of the Section 1 Plan, the MIQs themselves will largely focus on the extent to which the additional evidence base documents address shortcomings in the original evidence base, as identified in my post-hearings letter [IED/011].
10. Moreover, unlike the pre-submission consultation in 2017 which covered the full content of the Section 1 Plan and its evidence base, the representations received to the recently-completed technical consultation respond specifically to the additional evidence base documents prepared by the NEAs. This means that they are already relatively tightly-focused and cover much of what will be discussed at the further hearings.
11. Accordingly, I would expect that most participants' hearing statements will be brief and that their answers to many of my questions (where relevant to their representations) will, in most cases, be dealt with by reference to the representations they have already made. The NEAs' statements are likely to be longer, however, as they will need to deal with all my questions and take other participants' representations into account.
12. In that light I have considered your proposal for an iterative, three-stage process for the submission of hearing statements. As you will be aware, the Planning Inspectorate's *Procedure Guide* advises, at paragraph 3.21:

Because the examination is an inquisitorial rather than an adversarial process, it is inappropriate for parties to make further submissions countering the arguments of others. In order to avoid this situation arising, the date for submission of hearing statements will normally be the same for all parties, including the LPA. However, the Inspector may invite further

submissions on particular matters from the LPA or any other participant, if that is helpful to aid understanding of the issues.

13. In my view, the process of simultaneous submission of hearing statements is fair to all parties to the examination, and in the circumstances I have described there are no strong grounds to warrant departing from the *Procedure Guide's* advice in this respect.
14. Having said that, I acknowledge that occasionally new points may be made in hearing statements and that it may assist the efficiency of the further hearings if other parties are able to respond to them in writing beforehand. I would therefore be prepared to invite responses to hearing statements from the NEAs and the other participants, provided these are limited to addressing any new points raised in the statements, and are also submitted simultaneously.

Procedure at the further hearing sessions

15. In the third paragraph of your letter you refer to the desirability of ensuring that members of the public are fully engaged in the proceedings at the further hearing sessions. So that there is no misunderstanding by others who may read this correspondence, I should clarify that only the invited participants may actually take part in and speak at the hearing sessions. However, members of the public are of course welcome to attend the hearing sessions and observe the proceedings.
16. It may help members of the public to understand the context for the discussion if, as you suggest, the NEAs introduce each hearing session with a statement setting out their position on the key issues. At the same time, it must be borne in mind that the examination is primarily an inquisitorial process. The main purpose of the hearing sessions is to allow the Inspector to probe the evidence further by asking the participants to respond to specific points³. Reiteration of material already covered in written submissions is not generally an efficient use of time at the hearings.
17. Taking all this into account, I have no objection to the NEAs preparing a short opening statement for each hearing session, to set the scene for members of the public who are attending. But I would ask that the statement is kept as brief as possible – around a maximum of five minutes. Thereafter I will expect the discussion to proceed as described above.
18. To help members of the public follow the proceedings, I suggest that it would also be helpful for paper copies of the hearings programme and the matters, issues and questions for each session to be made available at the door. It would also be worthwhile making it clear on the examination

³ See the *Procedure Guide*, paragraph 5.2.

website that hearing statements are available for members of the public to download and read in advance.

19. As you will recall from the original hearing sessions, it is normal practice at the end of each phase of the discussion for the Inspector to ask the plan-making authority to respond to the comments made by the other participants. I will follow the same practice at the further hearings.

Site promoters

20. I agree that it will be helpful for the relevant further hearing sessions to include input from the promoters of sites within the proposed garden communities. I will ensure that they have the opportunity to take part if they wish to do so.

Timetable for the further hearing sessions

21. I will publish the full timetable for the further hearing sessions, my MIQs and the deadlines for submission of hearing statements, as soon as I have completed my review of the responses to the technical consultation. The likely timescales are as follows – but please note that these may be subject to change:

Mon 11 Nov Publish MIQs, hearings timetable & Inspector's guidance note

Mon 2 Dec Deadline for hearing statements

Mon 16 Dec Deadline for responses to hearing statements

Tue 14 Jan Hearings open

22. I expect the hearings to run for at least two weeks, Tuesday to Thursday, and it may be necessary for them to continue into the week beginning 27 January.

Conclusion

23. I hope that this letter addresses all the matters raised in your letter of 8 October, but please contact me again if there are any further points you would like me to consider.

Yours sincerely

Roger Clews

Inspector