

MILTON KEYNES LOCAL DEVELOPMENT FRAMEWORK

MILTON KEYNES WASTE DEVELOPMENT PLAN DOCUMENT EXAMINATION

GUIDANCE NOTES FOR PARTICIPANTS

Pre-Examination Meeting: 18 July 2007

Hearings commence: 2 October 2007

Location:

Pre-Examination Meeting:

Meeting Room 2

Civic Offices

1 Saxon Gate East

Central Milton Keynes

MK9 3HQ

Hearings:

Civic Offices

1 Saxon Gate East

Central Milton Keynes

MK9 3HQ

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Stephen J Pratt BA(Hons) MRTPI

MILTON KEYNES WASTE DEVELOPMENT PLAN DOCUMENT EXAMINATION

GUIDANCE NOTES FOR PARTICIPANTS

1 Introduction

- 1.1 These Guidance Notes have been prepared to assist individuals and organisations who wish to be involved in the Examination into the soundness of the Milton Keynes Waste Development Plan Document (the "Waste DPD"). It was formally submitted to the Secretary of State on 29 January 2007, after which representations were invited from all those with an interest in the plan for a period of six weeks until 14 March 2007. **It is important that all those who wish to be involved in the hearing sessions of the Examination attend the Pre-Examination Meeting.**

2 Inspector and Programme Officer

- 2.1 The Secretary of State has appointed the **Inspector, Stephen J Pratt** BA(Hons) MRTPI, under Section 20 of the Planning & Compulsory Purchase Act 2004 to hold the Examination into the soundness of the Waste DPD.
- 2.2 The **Programme Officer** for the Examination is **Jamie Chalmers**. He is an impartial officer of the Examination, working under the Inspector's direction. He is responsible for organising the programme of hearings, maintaining the Examination library, recording and circulating all material received, and assisting the Inspector with administrative matters. He will advise on any programming and procedural queries, and any matters which the Council or participants wish to raise with the Inspector should be addressed to the Programme Officer. His contact details are shown on the title sheet of these notes and on the covering letter.

3 Purpose of the Examination

- 3.1 The purpose of the Examination is to examine the **soundness** of the Waste DPD. It is important to note that the "Examination" relates to the whole process of examining the plan, from the time of submitting the Waste DPD to the Secretary of State to submitting the Inspector's binding report to the Council. The hearing sessions are an important element of the Examination and are scheduled to commence at 10.00am on **Tuesday 2 October 2007** at the Council's offices at the Civic Centre, Milton Keynes.
- 3.2 The Inspector's role is to consider whether the Waste DPD meets the requirements of Sections 19-20 of the 2004 Act and associated regulations, and whether it is **sound** in terms of the tests set out in paragraphs 4.23-4.24 of Planning Policy Statement PPS12. **The Examination will focus on these tests of soundness.** The Council should rely on evidence collected while preparing the Waste DPD to demonstrate that it is sound. Those seeking changes to the Waste DPD need to demonstrate why the document is not sound and suggest changes to make it sound, supported by the necessary evidence.
- 3.3 The tests of soundness broadly focus on three main areas:
- **Procedural**: whether the Waste DPD has been prepared in accordance with the Local Development Scheme, Statement of Community Involvement and associated Regulations, and has been subject to Sustainability Appraisal;
 - **Conformity**: whether it is a spatial plan consistent with national planning policy and in conformity with the Regional Spatial Strategy, having regard to relevant plans and strategies of adjoining areas and the Council's Community Strategy;
 - **Coherence, consistency and effectiveness**: whether the strategies and policies are coherent and consistent and represent the most appropriate in all the circumstances, having considered relevant alternatives; and are founded on a robust and credible evidence base, with clear mechanisms for implementation and monitoring and reasonably flexible to deal with changing circumstances.

- 3.4 The process of examining development plan documents produced under the new LDF system is different from the previous process of considering objections to a local plan:
- The Examination process has to be undertaken quickly, with the aim of submitting the binding report no later than 12 months from the date of submission;
 - There is a presumption that the plan is fundamentally sound, unless it is shown to be unsound by evidence presented during the Examination;
 - The Waste DPD is subject to an Examination, including hearing sessions, rather than a local plan inquiry;
 - The Examination is into the **soundness** of the Waste DPD, **not into individual objections**. 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 PPS12;
 - Unlike the old system, the Inspector is not required to consider each and every point made in every objection or to report on them, but to use the representations to assist in considering whether the plan is sound;
 - The Waste DPD and the Examination should be "front-loaded", with all the material and evidence submitted well before the hearings commence.
- 3.5 Section 1.3 of the Planning Inspectorate's Guide (see below) sets out the process of assessing the soundness of development plan documents and the potential outcomes of the examination process. Under the new LDF system, the scope for making changes to the Waste DPD, once submitted, is somewhat limited, particularly where they have implications for the sustainability appraisal and the consultation processes already undertaken. There are effectively three options:
- to find that the plan is basically sound, but that some policies/text need minor amendments to make them sound before the plan can be adopted;
 - to find that parts of the plan are unsound and either require further work to be undertaken to make it sound before the plan can be adopted; or that part of the plan should be excluded or changed; or brought forward in a revised form in a fresh DPD, and the remainder adopted;
 - to find that the plan is fundamentally unsound and should not be adopted, and should be formally withdrawn.
- 3.6 The **hearing sessions** of the Examination are an inquisitorial process under the Inspector's direction, rather than the previous more adversarial approach of the local plan inquiry. The process of examining the soundness of the Waste DPD is more like an Examination in Public into a Structure Plan or Regional Strategy, with hearing sessions addressing particular topics, rather than the traditional public inquiry considering individual objections. The topics and issues for discussion are selected beforehand by the Inspector and arise from the tests of soundness and the representations made at the submission stage. The Council and other participants have the opportunity to contribute to the debate on the specific matters identified.
- 3.7 This Waste DPD comprises a Core Strategy, Site Allocations and Development Control Policies, and the Examination will consider all relevant aspects related to the soundness of these elements of the plan. National and regional policies, as such, will not be debated, but the Examination will consider the application and implications of such policies if they directly affect the matters covered by the Waste DPD. The Council is currently clarifying whether any additional or alternative sites are being put forward by representors, and will advertise these sites, if necessary, prior to the PEM.
- 3.8 Under the new LDF system, a very tight timetable is needed to examine the soundness of the Waste DPD, in order to meet the objective in PPS12 and the estimated date of February 2008 for adopting this Waste DPD included in the Council's Local Development Scheme.
- 3.9 After the Examination has closed, the Inspector will submit his report to the Council with his conclusions and recommendations on the actions or changes needed as regards the soundness of the Waste DPD. These recommendations are binding on the Council and they have to amend the Waste DPD in the light of these binding recommendations and move swiftly to its formal adoption.

- 3.10 In terms of published documents, all participants should be familiar with:
- *Planning Policy Statement PPS12 – Local Development Frameworks* and the *Companion Guide to PPS12 – Creating Local Development Frameworks* [ODPM]
 - *Planning Policy Statement PPS10 – Planning for Sustainable Waste Management* [ODPM] and the accompanying *Companion Guide to PPS10* [DCLG]
 - *Development Plans Examination – A Guide to the Process of Assessing the Soundness of Development Plan Documents* [PINS; December 2005]
 - *Frequently Asked Questions on the Examination of Development Plan Documents & A Brief Guide to Examining Development Plan Documents* [PINS; July 2006]
 - *Lessons Learned Examining Development Plan Documents* [PINS; June 2007]
 - *Planning & Compulsory Purchase Act 2004 and associated regulations*
- 3.11 Much of the procedure will be new to some participants, but most of the guidance and procedure is set out in PPS12, the Companion Guide and PINS guidance, and is available on the Planning Inspectorate's web-site: www.planning-inspectorate.gov.uk

4 Pre-Examination Meeting

- 4.1 The Pre-Examination Meeting (PEM) will take place on **Wednesday 18 July 2007**, at **Meeting Room 2, The Civic Offices, 1 Saxon Gate East, Central Milton Keynes MK9 3HQ**, at **2.00pm**. The purpose of the PEM is to explain and discuss procedural and administrative matters relating to the management of the Examination, including the Matters & Issues to be examined, the programme for the hearings and the participants, the methods of dealing with representations, the timetable for submitting further statements, and any other relevant matters. The content and merits of the Waste DPD and the representations will not be discussed at this meeting.
- 4.2 At the PEM, the Inspector will ask the Council a series of procedural questions, to confirm that the Waste DPD has been prepared in accordance with the statutory procedures under Section 20(5)(a) of the 2004 Act and associated regulations, including the Council's Local Development Scheme and Statement of Community Involvement, and is supported by a Sustainability Appraisal. He will also seek confirmation that the Waste DPD is in general conformity with the Regional Spatial Strategy, and clarify the position in respect of the Statement of Community Involvement, Local Development Scheme and currently adopted development plans. Many of these matters should be addressed in the Council's own Self-Assessment of Soundness of the Waste DPD, which is available from the Programme Officer.
- 4.3 An agenda for the PEM has previously been circulated. A note of the PEM, along with a Programme for the Hearing sessions and the Matters & Issues for Examination will be circulated to all those who have made representations after the PEM. The Council has already formally advertised the date of the PEM and will advertise the opening date for the hearing sessions of the Examination at least 6 weeks before it commences.

5 Representations on the Waste DPD

- 5.1 Under Regulation 31 of the Local Development Regulations, the Council has confirmed that some 38 organisations and individuals made a total of 57 representations on the Waste DPD Submission Document during the representation period. Of these, 45 representations considered it to be unsound and 12 considered it to be sound. A further 5 representations from 5 representors were received after the closing date, but the Council has accepted and considered these late representations.
- 5.2 The representations cover many aspects and policies in the Waste DPD, but focus on the general conformity with the adopted and emerging Regional Spatial Strategy, particularly in terms of making provision to accommodate a proportion of London's waste. Other key issues include the policy on incineration, commercial, hazardous and kitchen waste, in-vessel composting, autoclaving, waste minimisation, cross-boundary issues, implementing and monitoring policies, including biomass, the preferred waste management site at Old Wolverton, the reserve site at Wymbush, the existing landfill site at Bletchingly and other sites, including Brooklands Ridge.

6 Methods of considering representations

- 6.1 There are two main ways in which representations on the Waste DPD will be considered:
- Written representations – based on the original representation, with a response, if necessary, from the Council; the Inspector may also seek additional information for 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 points in the representations will be dealt with at a Hearing Session of the Examination, where the Council and other participants debate the main points on the key issues identified by the Inspector in a structured and informed discussion.
- 6.2 Both methods carry the same weight and the Inspector will have equal regard to views put orally or in writing. Only those seeking specific changes to the Waste DPD are entitled to attend the hearing sessions of the Examination. There is no need for those supporting or merely making comments on the plan to attend, and attendance at the hearings will only be helpful if participants wish to contribute to the debate. It is also important to note that the Inspector's role is to consider the soundness of the plan in the light of the representations received, rather than considering all the points raised in those representations.

7 Procedure at the Hearing Sessions of the Examination

- 7.1 The hearing sessions of the Examination will commence on **Tuesday 2 October 2007** at the Council's Civic Centre offices, at **10.00am**. Subsequent sessions will normally start at **9.30am** and **2.00pm** each day, with a break for lunch at about 1.00pm, and finish at about 5.00pm. If convenient, a short break will be taken mid-morning and mid-afternoon. The hearings will be in session on Tuesday-Friday.
- 7.2 A separate hearing session of the Examination will be held for each of the main topics identified in the programme. The sessions will normally take the form of a hearing, where the Council and those who wish to be heard discuss the key points around a table. This will provide a relaxed and informal setting for dealing with the issues, by way of a discussion led by the Inspector. Those attending may bring professional representatives with them and ask questions, but there will be no formal presentation of evidence, cross-Examination or formal submissions. There is no need for participants to have legal representation, and the Council is not intending to be legally represented at any of the sessions.
- 7.3 Before the sessions, the Inspector will set out a detailed agenda with the points for discussion on each topic. The discussion will focus on the issues identified in the agenda and the questions posed. The Inspector will begin by making a few brief comments on the matters to be covered, asking questions and drawing participants into the discussion so as to enable him to gain the information necessary to come to a firm conclusion on the relevant issues. There will be an opportunity to ask questions, and professional representatives can join in the discussion. At the end of each session, participants will have the opportunity to sum-up the main points of their arguments. More formal hearing sessions may be considered where there is a particular reason, but it is the Inspector's responsibility to determine the procedure to be adopted and the way in which oral representations are dealt with.
- 7.4 The hearings will be conducted on the basis that everyone taking part has read the relevant documents, although participants will be able to refer to and elaborate on relevant points, as necessary. The Council's statements will be available to all those attending the relevant hearing sessions and everyone will be able to see the statements of other participants.
- 7.5 The Inspector will endeavour to progress the hearing sessions in an effective and efficient manner, keeping a tight hand on the discussions and time taken. As part of that process, he will aim to minimise the amount of material that is necessary to come to informed conclusions on the issues.

8 Examination Programme

- 8.1 A draft programme for the hearings will be available at the PEM, along with the Matters & Issues identified for Examination. The hearings part of the Examination should last no longer than a week, starting on **Tuesday 2 October 2007**. The programme is likely to reflect the main issues set out in the Council's Regulation 31 statement, which will be set out in more detail in the Matters for Examination, and are likely to include:
- Procedural matters, including compliance with Local Development Scheme, Statement of Community Involvement and associated Regulations, Regional Spatial Strategy, Sustainability Appraisal and Community Strategy, alternative options and other strategies;
 - Core Strategy, including the Guiding Principles and Vision, waste strategy in relation to regional requirements, local issues, capacity, targets and requirements for various types of waste, provision for waste management capacity, sustainable design and construction, provision for accommodating a proportion of London's waste, and existing waste sites (including Policies WCS1, WCS2 & WCS3);
 - Site Allocations, including preferred, reserve and alternative/additional Strategic Waste Management sites, and safeguarding existing and proposed sites, (including Policies WA1 & WA2);
 - Development Control Policies, including development control criteria, environmental objectives, transport, and restoration (Policies WDC1-WDC4);
 - Other matters, including Monitoring & Implementation, Appendices, Key Diagram & Proposals Map; and any other matters.
- 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 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 programme, but it is the responsibility of the participants to keep themselves up to date with the timetable, and ensure that they are able to attend at the appropriate time.

9 Preparation and submission of further material

Core documents

- 9.1 The Council will prepare a list of **Core Documents**, which will be available in the Examination Library. These will include the Regional Spatial Strategy, Planning Policy Guidance Notes (PPGs) & Planning Policy Statements (PPSs), Topic Papers, Background Papers, existing Local Plans and any other documents that they are likely to refer to. The list of Core Documents should represent the Council's full evidence base for the Examination. An initial list of Core Documents will be available at the PEM, and the Programme Officer will inform participants when it has been finalised. Participants should ensure that any documents they intend to refer to are included in the list of Core Documents, and they should arrange for any missing documents to be sent to the Programme Officer (four copies will be required).

Topic Papers

- 9.2 The Council intend to prepare a series of **Topic Papers**, which will cover London's waste, Approach to Consultation & Appraisal, and a Summary of Objections and Suggested Minor Changes. These should be available by the end of July 2007.
- 9.3 The Topic Papers should set the scene for the issues to be debated and assist the Inspector in preparing for the hearing sessions of the Examination. They should deal with the broad basis of the Council's case in respect of representations on a particular topic, drawing from relevant Committee reports and Core Documents. They should refer to the evidence base to justify a particular strategy, along with any supporting documentation. They should also explain how any suggested changes might affect the Waste DPD and the associated sustainability appraisal, and conclude with a clear statement of what changes would be necessary to make the plan sound.

Submission of further written statements and other material

- 9.4 The representations already made at submission stage should include all the points, documents and evidence necessary to substantiate representors' cases. **It should not be necessary to submit any further material based on the original representations.** Please note that although representations may have been made at earlier stages of the plan process, the Inspector only has copies of representations made at the Waste DPD submission stage.
- 9.5 **From now on, all written submissions should address the Matters and Issues for Examination identified by the Inspector.** This schedule will be available at the PEM and formally published shortly afterwards. The Inspector will ask the Council and those making representations on these topics to respond to these issues at least **FOUR WEEKS** before the hearing sessions open; i.e. by **4 September 2007**.
- 9.6 The Examination starts from the basis that the Waste DPD is fundamentally sound unless otherwise shown, and participants will be expected to produce clear evidence to demonstrate that the plan is unsound. All statements should specifically address the relevant Matters & Issues identified for Examination, referring to the tests of soundness, and demonstrate why the plan is unsound and how it could be made sound, indicating:
- *Which particular part of the Waste DPD is unsound?*
 - *Which soundness test(s), set out in paragraphs 4.23-4.24 of PPS12, does it fail?*
 - *Why does it fail?*
 - *How can the Waste DPD be made sound?*
 - *What is the precise change/wording that is being sought?*
- 9.7 From the Council, the Inspector expects a specific response to each of the Matters & Issues identified for Examination, including responses to the representations on each topic, explaining why the Waste DPD is considered to be sound in that respect and why the changes sought by other parties would make it unsound.
- 9.8 Submissions should be succinct, avoiding unnecessary detail and repetition. There is no need for verbatim quotations from the Waste DPD or other sources of policy guidance. Nevertheless, it is vital that the fundamental elements of cases are set out clearly and succinctly, since the hearings are not the place for new points or evidence to be presented for the first time. All statements should clearly indicate the policy/paragraph/page of the Waste DPD and the relevant soundness test, and include all the evidence necessary to support the case.
- 9.9 Participants should aim to agree factual matters and statistics before the hearings start and everyone is encouraged to maintain a dialogue with the Council and other participants in advance of the hearings. Statements of Common Ground can be a useful way of narrowing the issues in dispute, and should be submitted within the timescales set out above. There is no need to prepare a further statement if all the points are already covered in the original representation, but participants should notify the Programme Officer if they do not intend to submit further statements so that the original representation can represent their views.
- 9.10 The Programme Officer will require **4 copies** of all statements. Statements should be no longer than 3,000 words for each matter or issue, either for a hearing session or written representations. Statements which are excessively long or contain irrelevant or repetitious material may be returned. Technical evidence should be limited to appendices, clearly related to the case. Supporting material should be limited to that which is essential and need not contain extracts from documents already in the Examination library. There is no need for summary statements. Statements should be on A4 paper, unbound, punched with two holes for filing, and any plans or diagrams should fold down to A4 size. All statements should be marked with the Council's reference number, and should also be submitted in electronic form, if possible.
- 9.11 All participants should adhere to the timetable for submitting further statements. Participants should avoid circulating additional material during the hearings. **Late submissions and additional material are unlikely to be accepted on the day of the relevant session**, since this can cause disruption and result in unfairness, and can

lead to requests to adjourn the hearing. **Those who fail to meet the deadlines may lose their right to be heard**, unless the Inspector is satisfied that there is a genuine and unavoidable reason, and the representation will then be considered by written representations. If material is not received by the deadlines stated, the Programme Officer will assume that no further representations are to be made by that participant.

10 Further changes to the Waste DPD

- 10.1 The Council envisages making some minor changes to the text of the submitted Waste DPD, which should be available by the time of the PEM. In line with the advice in PPS12, the Council should not propose any fundamental changes to the submitted Waste DPD before the hearing sessions of Examination. Where the Council considers minor changes are necessary, these should not affect the substance of the document, its overall soundness or the submitted sustainability appraisal. If, exceptionally, more fundamental changes are proposed, the Council must explain the reasons for the changes, with supporting evidence, and indicate the implications in terms of the soundness of the plan. They should also ensure that these changes have been subject to the same process of sustainability appraisal, publicity and opportunity to make representations as the submitted plan. Any agreed changes should include the precise wording of any amendments to the text and be set out in an Examination document.

11 Availability of information

- 11.1 The Programme Officer will maintain an Examination Library at the Council's offices. This will contain copies of the Waste DPD and associated documents, all representations, the Core Documents and further representations and statements, as received. Summaries of the representations made at submission stage are available on the Council's web-site and at Council offices.
- 11.2 The Programme Officer will maintain lists of all documents submitted. Lists of documents, the up-to-date Programme for the hearing sessions and other relevant material will be on display on the Examination notice board at the hearing venue. Relevant information will be found on the Council's web site: [<http://www.milton-keynes.gov.uk/local%5Fplan%5Freview/DisplayArticle.asp?ID=48218>]. Anyone who requires assistance or special facilities for disabled persons should contact the Programme Officer beforehand to enable appropriate arrangements to be made.

12 Site visit arrangements

- 12.1 The Inspector will carry out a tour of the District to familiarise himself with the area, visiting all the places and sites referred to in the representations on an unaccompanied basis. If there are particular reasons for an accompanied visit, participants should discuss this with the Programme Officer.

13 Close of the Examination

- 13.1 The Examination will remain open until the Inspector's report is submitted to the Council. However, the Inspector will not accept any further representations or evidence after the hearing sessions have finished unless he specifically requests further information. Any late or unsolicited material is likely to be returned.

14 Submission of Inspector's Report to the Council

- 14.1 After the Examination has closed, the Inspector will submit his report with binding recommendations to the Council. The date of submission will largely depend on the content, extent and length of the Examination, and the Inspector will confirm the likely date at the end of the hearing sessions of the Examination.

MILTON KEYNES WASTE DPD EXAMINATION

KEY DATES

Summary of representations made at submission stage and Council's responses available at Council offices and on the Council's web-site 29 June 2007

Council's suggested minor changes to Waste DPD 29 June 2007

Initial Core Documents list produced 18 July 2007

Draft programme for hearing sessions of the Examination 18 July 2007

Inspector's draft Schedule of Matters & Issues for Examination 18 July 2007

Pre-Examination Meeting **18 July 2007**

Topic Papers published 27 July 2007

Submission of written statements responding to Matters & Issues for Examination **4 September 2007**

Hearing sessions commence **2 October 2007**