

**Examination of the
Cheshire East Local Plan Site Allocations and
Development Policies Document (the Plan)
September 2020**

INSPECTOR'S EXAMINATION GUIDANCE NOTE

Inspector: Mike Hayden BSc DipTP MRTPI

Programme Officer: Carole Crookes

Note: This guidance should be kept for reference throughout the Examination. It should be read in conjunction with **Procedure Guide for Local Plan Examinations – The Planning Inspectorate March 2021 (7th Edition)**, which is available from the Programme Officer or on-line at <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice/procedure-guide-for-local-plan-examinations> and with the **Matters, Issues and Questions for the Examination** and the **Draft Hearing Programme** accompanying this note.

Document References in [square brackets] are to the list of documents in the **Examination Library** which can be viewed on the Examination webpage or obtained from the Programme Officer.

Items in bold italics are for particular note or action.

Key Dates:

Advise Programme Officer of Participation	<i>Friday 17 September 2021</i>
Submission of Hearing Position Statements: <i>Matters 1-7</i>	<i>Friday 24 September 2021</i>
<i>Matters 8-12</i>	<i>Friday 1 October 2021</i>
Opening of Hearing Sessions	<i>Tuesday 12 October 2021</i>

Purpose of the Guidance Note

1. This note provides guidance to participants on the procedural and administrative arrangements for the Examination.

Dates for Hearing Sessions

2. The Hearing sessions (which are part of the Examination) will start on ***Tuesday 12 October 2021*** and will last for around 10 days. They will be held virtually using ***Microsoft Teams***, to overcome restrictions on venue capacity due to the Covid-19 pandemic. This guidance note includes the details for participation in the virtual Hearing sessions and how interested parties can view the proceedings.
3. Two documents are available with this note:
Matters, Issues and Questions for the Examination (MIQs) Part 1 – this sets out the questions the Inspector has identified for discussion in weeks 1 and 2 of the Hearing. ***Part 2*** (to follow) will set out the questions for week 3 of the Hearing.
Draft Hearing Programme – this sets out dates for Hearing sessions and the matters to be discussed at each session. Details may change.

The Inspector's Role in the Examination

4. I have been appointed by the Secretary of State to examine the soundness of the Plan and whether it meets the requirements of the Planning and Compulsory Purchase Act and associated Regulations. The Plan to be examined is the Cheshire East Local Plan Revised Publication Draft Site Allocations and Development Policies Document, September 2020 (the Plan).
5. The National Planning Policy Framework, July 2021 (paragraph 35) (<https://www.gov.uk/guidance/national-planning-policy-framework>) explains that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
6. There are three possible outcomes to the Examination:
 - the submitted Plan is sound;
 - the submitted Plan is not sound but could be made sound by changes (known as *Main Modifications*), if necessary following additional work; or,
 - the submitted Plan is not sound and could not be made sound by changes.
7. Following the close of the Hearing I will prepare a Report to the Council with my conclusions. The Council has formally requested that I recommend any *Main Modifications* necessary to make the Plan sound.¹
8. I will deal with broad issues in my Report rather than specifically with each individual representation.

Changes to the Plan

9. The starting point is that the Council has submitted a Plan which it considers is legally compliant, sound and ready for Examination. At this stage there are only two means by which changes can be made to the submitted Plan:
 - (1) *Main Modifications* recommended by the Inspector; and,
 - (2) *Additional Modifications* made by the Council on adoption.
10. However, I can only recommend *Main Modifications* if they are necessary to resolve problems that would otherwise make the submitted Plan unsound or not legally compliant.² *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 and Habitats Regulations Assessment might also be needed.
11. *Additional Modifications* are those changes which do not materially affect the policies in the Plan.³ They are made by the Council on adoption and are also sometimes referred to as *Minor Modifications*. The Council is accountable for any such changes and they do not fall within the scope of the Examination.

¹ Council's Submission Letter, dated 29 April 2021

² Under section 20(7B) & (7C) of the Planning and Compulsory Purchase Act (PCPA) 2004

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

12. The Council has already suggested some possible *Main Modifications* in response to my Initial Questions⁴, in part related to recent updates to the National Planning Policy Framework (NPPF) published in July 2021, after the Plan was submitted. 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 all proposed *Main Modifications* during the Examination.

Alternative or 'Omission' Sites

13. It is **not** for the Inspector to seek to improve the Plan or make it 'more sound'. I will make recommendations for *Main Modifications* only where necessary to ensure soundness or legal compliance.
14. Accordingly, there will be no oral sessions on 'omission sites'. The examination will test the soundness of the site allocations which have been proposed in the Plan and whether further allocations may be necessary for soundness. However, it is **not** for the Inspector to recommend specific alternative sites at this stage. In the event that the Plan were to be found unsound with the sites it proposes to allocate or designate, the Council would be asked to consider and propose additional or alternative sites as *Main Modifications* to the Plan for further consultation.
15. Nevertheless, representors promoting sites not allocated in the Plan have a right to be heard in support of a duly made objection. I have also noted that a number of sites, which were proposed for allocation for housing development at the Local Service Centres (LSCs) in the Initial Publication Draft Plan, have been deleted from the Revised Publication Draft Plan submitted. An objection to the 'omission' of a site is, in effect, an objection to the site selection process, and/or the approach taken in the Plan to meet the development requirements of the borough, and will be redirected and heard, as such, in the appropriate Hearing sessions reserved for those issues.

The Programme Officer

16. The Programme Officer (the PO) for the Examination is **Carole Crookes**. Carole is working under my direction and is independent of the Council. She can be contacted as follows:

Carole Crookes
Independent Programme Officer
PO Box 789
Wakefield
WF1 9UY
Email: programmeofficer@cheshireeast.gov.uk
Phone: 07397 909822

17. The main tasks of the PO are to organise the administration of the Examination, to act as a channel of communication between all parties and the Inspector, to liaise with parties to ensure the smooth running of the Examination, to ensure that all documents received are recorded and distributed and to run the Examination Library. The PO is the first point of contact for those with queries about the process.

⁴ Examination document CEC/01

18. Copies of Examination documents can be found on the Examination website at: https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire_east_local_plan/site-allocations-and-policies/sadpd-examination/examination-library.aspx Any participant who does not have access to the internet should contact the PO to arrange access to the library.
19. Any procedural questions or other matters that you wish to raise with me prior to the Hearing sessions should be made through the PO.

Progressing your Representations on the Plan

20. Only those seeking to change the Plan have a 'right to be heard' and participate in the Hearing sessions.⁵ However, the Hearing sessions will be live streamed and made available via the Council's website for anyone to view.
21. Those who have made representations will by now have indicated whether their views should be dealt with in a written form or whether they feel that they need to discuss them orally at a Hearing session. Both methods will carry the same weight and I will have equal regard to views put at a Hearing session or in writing. Attendance at a Hearing session will only be useful and helpful to me if you wish to participate in the discussion.
22. Before deciding whether to appear, Representors should study the Council's responses to the main issues raised in the representations to the Plan in the Regulation 20 Consultation Statement⁶ and their responses to the Inspector's Initial Questions, July 2021⁷, to note how the Council may have dealt with their concerns.
23. The **MIQs Parts 1 and 2** will form the basis for the discussion at the Hearing sessions. The **Draft Hearing Programme** includes a draft list of the issues and topics for discussion at each Hearing session. Representors should study both of these documents before deciding whether they wish to participate. In order that the timetable can be finalised, those Representors wishing to take part in the Hearing should contact the PO by **1200hrs on Friday 17 September 2021** stating your intention to appear and on which Matter(s) and Issue(s) you wish to speak, including, if possible, which question(s).
24. Where several people or organisations wish to speak on the same issue, you should consider appointing a spokesperson or persons. Please contact the PO if so.
25. A final draft of the Hearing Programme will be published on the Examination website around two weeks before the start of the Hearing. It will be for individual participants to check the progress of the Hearing, either on the website or with the PO, and to ensure that they are present at the right time. I will issue an Agenda to structure the discussion at each Hearing session, normally shortly before the date that the Hearing session is due to take place.
26. **Where Representors have raised a matter of soundness not identified by the Inspector but still wish to appear, a suitable item can be added to one of the Hearing sessions if appropriate and agreed by the Inspector.** If any Representor considers that an additional item is required, this should be raised with the PO at the earliest opportunity.

⁵ S20(6) of the PCPA 2004

⁶ Core documents ED56 and ED56a

⁷ Examination document CEC/01

Joining the Virtual Hearing as a Participant

27. If you are intending to join the virtual Hearing via video link using a PC, Apple Mac, iPhone or Android, you should download and install the **Microsoft Teams** application. If this is not possible, you can join using a Chrome browser on your desk top or lap top computer (but not on your mobile phone). Some people with older devices, or who use corporate devices, which prevent downloads being installed could experience problems. In this case, either use an alternative or contact your corporate systems administrator. Please do familiarise yourself with MS Teams before joining the Hearing. You will be responsible for making sure your IT equipment and internet connection are functional and that you have everything in place and working to enable you to join the Hearing via MS Teams.
28. The PO will email participants with an invitation to join the Hearing. Participants should join their session using the electronic link in their invitation. If you prefer to join by telephone or are unable to use the video option, simply dial the telephone number provided and when asked, type your conference ID followed by the # key. The telephone number to ring will be provided within the invitation. There will be separate invitations sent out for each Hearing session.

Watching the Virtual Hearing

29. Each Hearing session will be live streamed and recorded and published on the Council's website within 24 hours of the session closing, in order that non-participants and members of the public can watch proceedings. Links to the live stream and the recorded sessions will be available on the Examination webpages at https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire_east_local_plan/site-allocations-and-policies/sadpd-examination/sadpd-examination.aspx

Participating in Virtual Hearing

30. The aim is to make the virtual Hearing as similar as possible to a physical Hearing in the way it is run and the way you participate.
31. Only **one participant** is allowed **per Representor**. However, in view of their particular position in covering the whole Plan, **two or sometimes more Council representatives** may take part in a Hearing session, depending on the subject under discussion.
32. At the start of each Hearing session I will take appearances in the usual way. I will lead the Hearing, in the format of **a structured discussion**. I will introduce each topic and ask specific questions about the topic. If you wish to respond to a question, please use the **'raise hand'** facility in MS Teams to indicate your desire to speak.
33. I will give each person who has raised their hand an opportunity to have their say, inviting participants to **speak in turn**. Although all participants may be able to see each other, only one participant may speak at a time. I ask that all participants have their video turned on, but that they remain on mute until invited to speak. When you are invited to speak unmute your microphone, and state your name and, if any, your organisation if it is your first time speaking during the session.

34. Please make your response brief and focused and adhere to the agenda. You will not need to repeat your full case, or give any formal presentation, as I will have read your representations. I may ask questions about aspects of your verbal or written submissions. There will be **no cross examination** and responses should always be directed to me.
35. If you have already spoken on a particular topic but believe that you can help further on the subject, raise your hand using the facility in MS Teams. Please ensure that anything you say here is new, important and relevant. Simply repeating what you or others have already said, or to register that you do not agree with another participant, is not necessary.
36. I will ask the Council for their comments on the main points raised and I will end the discussion on any topic when I have enough information. At the close of each Hearing session, I will ask all participants to log out of MS Teams.
37. If you experience **electronic interference** during a session, try moving your mobile phone away from your computer. If you experience other connectivity issues, try switching off some other devices which share your Wi-Fi, or move closer to the router.
38. If you are unable to join, or **lose connection** during a Hearing session, try again to join using the link provided in your invitation. The Hearing may continue in your absence. As a backup you can re-join by telephone, using the number in the invitation. Transferring from Wi-Fi to mobile data or making a Wi-Fi hotspot using a mobile phone are other contingencies that you may wish to use. If none of these resolves the issue, please contact the Programme Officer for assistance.
39. The Council will be running a **test event** on MS Teams for all participants before the Hearing opens. This will take place towards the end of September and further details will be sent out about it shortly from the Programme Officer. If you are interested in joining this, please email the PO and she will send you an invitation. I will not be attending the test event, it is intended only to ensure that participants are comfortable participating in the virtual Hearing using MS Teams.

Conduct, Documents, Evidence and Presentation

40. Local Plan Examination Hearings are a formal event, with appropriate conduct expected. All participants, their views and evidence are treated with fairness and consideration, and participants do not interrupt each other.
41. To make the best use of the Hearing time and to avoid disruption, the virtual Hearing sessions will start strictly at the time indicated on the agenda. You will receive an invitation from the PO to the relevant session or sessions along with a Privacy Policy. You must **join the Hearing session** on MS Teams **at least 20 minutes before** the time indicated on the agenda. The PO is responsible for admitting participants into the Hearing session. You will be held in a waiting lobby until you are admitted into the Hearing by the PO. Attempting to join the Hearing after it has started will cause disruption and you may not be admitted.
42. You should have made appropriate arrangements to ensure that **your working environment** is quiet, and that the Hearing (and your ability to concentrate on it) is not disrupted by external noise and unnecessary distractions. Please ensure that your camera is positioned to provide a clear, front-on view of your face and avoid sitting where you are silhouetted in front of a window or light.

43. You must make sure that you attend the Hearing session you are invited to from start to finish. Leaving midway through a session or coming and going are not respectful to the Hearing, and you may miss the opportunity to speak, hear other people's contributions, and listen to Inspector announcements.
44. When **adjournments** are announced, please make a careful note of the resumption time and be back at your screen before that time. If you need to leave early for any reason, please inform the PO.
45. The **chat facility in MS Teams must not be used** under any circumstances. It does not form part of the formal Hearing procedure and I will not view any posts. You should consider whether you are likely to need to confer with another person (Agent, Legal Representative, Colleague, etc) during the event. If so, agree how you intend to do this, for example by SMS, Email, WhatsApp, before the event.
46. The **Examination Library** contains all the relevant Examination documents. These are available to all participants, stakeholders and the public. The Hearing will not use the document sharing facility available on MS Teams. Nor should you hold any document in front of your camera.
47. **New documents** should only be submitted during the Hearing at my invitation. If I request a new document from any party, for example a statement of common ground, it should be emailed straight to the PO, so that she can pass it to me and put it in in the Examination library.

Privacy

48. The Hearing will be conducted in line with the Council's **data protection** policies and processes as set out here: [Strategic Planning \(including Neighbourhood Planning Team\) - privacy notice \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/strategic-planning-including-neighbourhood-planning-team-privacy-notice)

Please have regard to this and the privacy notice for the Local Plan Examination Hearing sessions included in the link. You can turn your camera off if you do not wish your image to be viewed during the virtual Hearing sessions.

49. Please **do not make your own recording of the Hearing sessions**. You must ensure that no-one else appears on your camera unless it has been otherwise agreed, and you should clear your background of personal information. If you prefer, MS Teams allows you to blur your background, but please do not use any of the other backgrounds that are available on MS Teams. You must also not share any personal information during the Hearing, either yours, or anyone else's.

50. Hearing Sessions

51. The Hearing sessions will begin at **10.00hrs on Tuesday 12 October 2021**. Each day of the Hearing will normally consist of three sessions, which after the first day will run between 0930hrs and 1100hrs, 1130hrs and 1300hrs and 1400hrs and 1530hrs to allow for appropriate screen breaks. Details of the sitting days are included in the accompanying draft Programme but in summary they are:

Tuesday 12 October to Friday 15 October 2021
Tuesday 19 October to Thursday 21 October 2021
Tuesday 2 November to Thursday 4 November 2021

52. Representors are requested to keep in touch with the PO and/or the Examination website regarding the programme, which may be subject to change.

Hearing Position Statements

53. To facilitate focussed discussion in the Hearing around the MIQs, the **Council** should produce a **Hearing Position Statement** for each of the Matters set out in the MIQs, in which they should answer all of the individual questions set out in the MIQs for that Matter. However, there is no need to repeat answers already provided in evidence base documents or in response to my Initial Questions (a cross reference will be enough). In answering each question the Council should have regard to the representations made on the Plan of relevance to that question.
54. Whilst it is not a requirement, **Representors** scheduled to appear may also submit **Hearing Position Statements**, but only on the questions in the MIQs relevant to their original representations. Alternatively, Representors can choose to rely entirely upon their original representations.
55. The submission of a Hearing Position Statement **must not be taken as an opportunity to submit new responses or fresh evidence and it must not be accompanied by any appendices**. For Representors, statements must rely essentially on your original response to the Publication Draft of the Plan, which is taken as your complete case. **Statements** should:
- be as succinct as possible, but limited to a strict **maximum of 3,000 words per Matter** and **only** answer the specific questions in the MIQs which are of relevance to your original representation (these limits do not apply to the Council because they must answer each question);
 - clearly identify the number(s) of the question(s) being answered;
 - cross reference the original representation, using the Representation number within the Representations database held on the Examination website;
 - have regard to the evidence submitted by the Council on the Examination website, including the Council's response to my Initial Questions, and when referring to them, cross reference the document reference, paragraph and page numbers rather than including extracts;
 - indicate whether any changes are needed to make the Plan sound or legally compliant (providing detailed suggested wording for the change and if appropriate, any changes sought to the Policies Map);
 - bear the name of the Representor and the Hearing session to which they relate;
 - be **printable on A4 paper**, with no diagrams or tables which need to be printed at a larger scale.
56. Where several people or organisations wish to speak on the same issue, Representors should consider producing a **joint statement**. Please contact the PO to discuss this.
57. An electronic version of each **Hearing Position Statement** should be **submitted** to the PO by the following dates and times:
- For Matters 1-7: midday 1200hrs on Friday 24 September 2021**
For Matters 8-12: midday 1200hrs on Friday 1 October 2021
58. Hearing Position Statements will be **posted on the Examination website**, so that they are available to all participants. However, anyone who is unable to access them on the website may request copies from the PO.
59. Aside from these Hearing Position 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.

The Examination Library

60. The Council has prepared an online Examination Library which can be found on the Examination website at https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire_east_local_plan/site-allocations-and-policies/sadpd-examination/examination-library.aspx
61. This contains the Council's evidence and other documents which have been produced during the Examination, including the Inspector's questions and guidance. If you have difficulties accessing the Library please contact the PO.

Site Visits and Close of the Examination

62. Insofar as I consider it necessary to my assessment of the soundness of the Plan, I will visit sites and areas referred to in the evidence and representations before, during or after the Hearing. I will do these visits on an unaccompanied basis unless I find that I need to go onto private land.
63. The Examination will remain open until my Report has been submitted to the Council. However, I will not accept any further representations or evidence after the Hearing sessions have ended unless I specifically request it. Late or unsolicited material may be returned.

Further information

64. Further information about the preparation and Examination of Local Plans can be found in the national **Planning Practice Guidance** <https://www.gov.uk/government/collections/planning-practice-guidance> and the Planning Inspectorate's **Procedure Guide for Local Plan Examinations – March 2021 (7th Edition)** <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice/procedure-guide-for-local-plan-examinations>

Mike Hayden

INSPECTOR

August 2021