
Royal Borough of Kensington and Chelsea

Examinations of the Partial Reviews of the Core Strategy: Policies relating to Basements, Conservation and Design, and Miscellaneous Matters

Guidance Notes for Participants

Introduction

1. As part of the process of reviewing its development plan, on 28 April 2014 the Council submitted three documents, each setting out revisions to parts of the Core Strategy that had been adopted in 2010, on the following topics:
 - Basements
 - Conservation and design
 - Miscellaneous matters
2. Each of those three partial reviews is now subject to independent examination by a Planning Inspector appointed by the Secretary of State.
3. This Guidance Note provides information about how the three partial reviews will be examined, and is intended to assist with the efficient running of the Examinations.
4. It is possible that some of the information set out in this Note, including that relating to the timing of certain events, may need to be updated during the course of the Examinations. Further information about how this will be done is set out in this Note.

The Inspectors and their roles

5. The partial review relating to basements will be examined by David Vickery DipT&CP MRTPI.
6. The partial reviews relating to conservation and design and to miscellaneous matters will be examined by William Fieldhouse BA (Hons) MA MRTPI.
7. The Inspectors will examine whether the partial reviews have been prepared in accordance with the requirements of the Planning and Compulsory Purchase Act 2004 (as amended) and associated regulations, and whether they meet the tests of soundness set out in the National Planning Policy Framework 2012 ("the Framework").
8. The Inspectors will aim to work with the Council, and everyone else involved in the Examinations, in a positive, proactive and pragmatic manner in order to expedite the partial reviews. Clarification on a number of matters may be sought from the Council and the relevant correspondence will be published on the Examinations website (details of which is provided below).

The Programme Officer and his role

9. Chris Banks is the Programme Officer for the three Examinations. He is acting as an independent officer under the direction of the Inspectors, and is responsible for recording and circulating all material, maintaining the Examination libraries and website, and organising the hearings. He will act as a channel of communication

between the Inspectors and all parties, including the Council. Any queries about the Examinations should be raised with the Programme Officer who will provide guidance and advice, having liaised with the Inspectors or the Council if necessary.

10. The Programme Officer will ensure that up to date and comprehensive information about the Examinations, and copies of all documents, can be found at the following website:
<http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/developmentplan/corestrategypartialreview/examination-partialreview.aspx>
11. If anyone wishes to view paper copies of any of the documents they should contact the Programme Officer. Anyone who has a disability that could affect their involvement in the Examinations, including at the hearings, should contact the Programme Officer as soon as possible for assistance.
12. The Programme Office can be contacted as follows:

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Programme Officer
c/o Banks Solutions
21 Glendale Close
Horsham
West Sussex
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Email: bankssolutions@gmail.com

The Partial Review Documents

13. Following earlier rounds of consultation starting in April 2012, December 2012, and March 2013 the partial review relating to basements was published for consultation in February 2014. Comments from 350 representors were received by the Council.
14. Following earlier rounds of consultation starting in December 2012 and July 2013, the partial review relating to conservation and design was published for consultation in February 2014. Comments from 32 representors were received by the Council.
15. Following previous rounds of consultation starting in December 2012 and March 2013, the partial review relating to miscellaneous matters was published for consultation in July 2013. Comments from 8 representors were received by the Council.
16. In April 2014, the Council published changes that it recommends to each of the three partial reviews following its consideration of all of the representations made at the publication stage. These do not seem to have been subject to further consultation or sustainability appraisal and therefore, whilst the Inspectors will take them into account, the documents that are being formally examined are the publication versions of the partial reviews.

Purpose and Scope of the Examinations

17. The Council has conducted legal and procedural compliance self-assessments which conclude that all relevant requirements have been met up to the point at which it submitted the reviews for examination. The Inspectors will, however, need to be

satisfied that this is indeed the case and will therefore give this further consideration during the Examinations.

18. Section 33A of Planning and Compulsory Purchase Act 2004 (as amended) includes a duty to cooperate in relation to the preparation of development plans. However, that duty applies only to development plan matters that are "strategic" as defined in the Act. It appears to the Inspectors, based on their initial assessments, that none of the three partial reviews relate to such strategic matters. If that is indeed the case, the duty to cooperate does not apply.
19. The starting point for the Inspectors' assessments is the assumption that the Council has submitted what it considers to be sound partial reviews.
20. The tests of soundness are set out in the Framework. To be sound the revisions must be:
 - **Positively prepared:** based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;
 - **Justified:** the most appropriate strategy when considered against the reasonable alternatives, and based on proportionate evidence;
 - **Effective:** deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities; and
 - **Consistent with national policy:** enable the delivery of sustainable development in accordance with the policies in the Framework.
21. The Inspectors will consider all of the representations made about the partial reviews, but they will not report on every point made. Rather, the representations will be used to inform the Inspectors' judgements about soundness and legal compliance. These judgements will also be made in the context of the objective of contributing to, and the presumption in favour of, sustainable development set out in the Framework.
22. It is not the role of the Inspector to "improve" the partial reviews, but only to address any unresolved issues that would otherwise mean that the soundness and legal tests would not be met.

Main Modifications

23. If either of the Inspectors consider that modifications need to be made to the partial reviews in order to achieve soundness or legal compliance, then under section 20(7c) of the 2004 Act the Council can ask him to recommend those "main modifications". It is possible that the Council, or other parties, may suggest main modifications during the course of the Examinations. If so, they will be published on the Examinations website. If they are to be recommended by the Inspector it will be necessary to ensure that others have the opportunity to comment on them, and, if appropriate, for further sustainability appraisal to be carried out. In such circumstances, the Inspector would consider any comments and appraisal as part of his assessment.

Additional Modifications

24. It is possible that the Council will wish to make minor changes in addition to any main modifications recommended by the Inspector before adopting the partial review documents. Such changes ("additional modifications") may relate to matters such as correcting typographical errors, minor editing, and factual or name changes. These would not be matters for the Inspectors.

Examinations Programme

25. The detailed timetables for the Examinations will be finalised shortly. At present it is expected that the key stages will be as follows. Further information about these stages is set out in the subsequent sections of this note:

Conservation and Design, and Miscellaneous Matters

- Publication of the Inspector's matters, issues and questions – Monday 16 June.
- Deadline for submission of written hearing statements – Friday 8 August.
- Conservation and Design hearing sessions: Tuesday 9 September – Wednesday 10 September.
- Miscellaneous Matters hearing session: Thursday 11 September.

Basements

- Publication of the Inspector's matters, issues and questions: Monday 4 August.
 - Deadline for submission of written hearing statements: Friday 5 September.
 - Hearing sessions: Tuesday 16 – Thursday 18 September, and Tuesday 23 – Wednesday 24 September (5 days in total). Thursday 25 September is a reserve day.
26. It should be noted that the Inspectors have decided that Pre-Hearing Meetings will not be required given the nature of the partial reviews and the representations made about them. This Guidance Note should contain all the information needed by those wanting to participate in the examination process. However, if further information, or clarification, is needed, please contact the Programme Officer.
27. Every effort will be made to keep to the timetable, but it is possible that alterations will need to be made. The Examinations website (see above) will be updated regularly, including any changes to, and details about, the timetable.
28. Any comments on the initial timetables for the hearings should be received by the Programme Officer by Friday 27 June 2014.

Matters and Issues

29. The Inspectors will set out a list of "matters, issues and questions" relating to each of the three partial reviews. These will be based on their initial assessments in terms of soundness and legal compliance having regard to all of the representations made. These matters, issues and questions will form the basis of the discussions at the hearings.

Progressing Representations

30. Some people have already indicated that they wish to have their representations considered in writing only, or that they would like to discuss them at a hearing. Both methods carry the same weight, and the Inspectors will have equal regard to all views whether expressed in writing or at a hearing.
31. In the interests of fairness to all parties, it will not be possible to grant any change from written representations to an appearance at a hearing made after Friday 4 July 2014. This is due to the additional statements that are required from attendees at hearings, and the need for these to be considered by all participants. Therefore please let the Programme Officer know before that date if you now wish to participate at the hearings.

32. Hearings are public events, and anyone is entitled to attend in order to observe. However, only those who have made representations seeking changes to the partial reviews and have indicated that they want to participate will be able to speak. The Inspectors may invite other persons to appear at the hearings if they think that this would help with their examinations tasks.
33. Therefore if you do wish to participate at a hearing and have not already informed the Programme Officer, or are unsure, please contact Chris Banks as soon as possible.

Hearings

34. The hearings are intended to allow the Inspectors to explore the matters and issues that they have identified. The hearings will be informal, yet structured. The Inspector will chair the hearing and lead the discussion, following an agenda that will reflect the previously identified matters, issues, and questions. Participants may include professional experts and lawyers as appropriate, but there will be no cross examination. Everyone should focus on answering the Inspectors' questions, and comments that have been made in writing need not be repeated in detail. There should be no attempts to formally present evidence. The Inspector will ask questions of specific participants, and will also allow others to contribute on that issue if they wish. The Inspector may give participants the opportunity to ask questions of each other. Each matter and issue will be explored as far as necessary, before moving onto the next.
35. Hearing sessions can have a large number of people present (when they will be more formally run), but some will involve considerably fewer people. Participants will be asked to introduce themselves at the outset, and all will be given the opportunity to speak. Sessions will normally run from 10.00 until 13.00 and from 14.00 until 17.00, but this will be at the discretion of the Inspectors who will conduct proceedings each day to ensure maximum efficiency.

Hearing Statements

36. Those participating at hearings may provide succinct written statements that address the matters, issues and questions set out by the Inspectors. It is not necessary to repeat at length material that has already been submitted. The most relevant points can be summarised when they relate to the questions, and cross-references to other submitted or published material provided. In answering the Inspectors' questions, it should be made clear if it is considered that the partial review is unsound and, if so why (with reference to the Framework), and how it could be made sound. Where appropriate, specific alternative wording should be set out.
37. Representors that are not participating at hearings, but instead relying on the comments made in response to the publication of the partial review, may submit an additional written statement if they wish to directly address the Inspector's matters, issues and questions. Any such statement should adopt the same approach as that required of hearing participants (see above).
38. The Council must provide a written statement for each hearing session that addresses all of the matters, issues and questions with reference to specific parts of the relevant background documents. Any main modifications that the Council considers to be necessary to make the partial review sound should be clearly and fully set out. The Council's response to any main modifications suggested by third parties should also be contained in the appropriate hearing statement.

39. Written hearing statements submitted to the Programme Officer after the deadlines set by the Inspectors are unlikely to be accepted. All accepted statements will be published on the Examinations website (and emailed to all other participants attending the same session).
40. A format for written statements is attached as Appendix B. This, including the 3,000 word limit, must be adhered to as otherwise they may be returned by the Programme Officer for editing or not accepted at all.

Statements of Common Ground

41. Participants should attempt to reach agreement with each other as far as possible before the hearings commence. This may be on matters of fact, relevant evidence, or suggestions for main modifications. Statements of common ground can be particularly helpful. These should be submitted as part of, or alongside, the written hearing statement where possible. However, if agreement can be reached following consideration of other participants' written hearing statements, a statement of common ground may still be submitted; this should be done as far in advance of the hearing as possible.

Site Visits

42. The Inspectors may make unaccompanied site visits during the course of the Examinations.
43. If it is considered essential that an Inspector makes a visit to a particular site on an accompanied basis, for example due to the need to go onto private land for reasons related directly to representations already made, then this should be discussed with the Programme Office as soon as possible.

Inspectors' Reports

44. At the end of the Examinations, the Inspectors will send their reports to the Council. These will set out their conclusions and, if necessary, any main modifications required.
45. There are several possible outcomes of the Examinations. The most serious would be a conclusion that the partial review is unsound, that the fault is so fundamental that it could not be corrected by a main modification, and therefore the review document should be withdrawn. Alternatively, it could be concluded that the review is sound and legally compliant as submitted, and no main modifications are needed. Finally, it is possible that the review is not sound, but could be made so by way of main modifications.
46. Any main modifications recommended in the Inspectors' reports have to be used by the Council if it wishes to adopt the revisions to the Core Strategy relating to that particular partial review.
47. The Inspectors will announce at the end of the hearings the date on which they expect to send their reports to the Council. This will be published, and updated if necessary, on the Examinations website.

Close of the Examinations

48. Each Examination will remain open until the relevant report is submitted to the Council. However, no further representations or evidence will be accepted after the hearing sessions unless this has been specifically requested by one of the Inspectors.

And Finally

49. The Inspectors urge all representors to:

- Make sure they understand this note and what the Examinations will entail, and contact the Programme Officer as soon as possible if they have any queries.
- Adhere to the published timetable.
- Be aware of the relevant documents in the Examinations library.
- Focus on the Inspectors' forthcoming matters, issues and questions, and address these in terms of the tests of soundness set out in the Framework.
- Be explicit about any main modifications considered necessary.
- Keep looking at the Examinations website and be in contact with the Programme Officer.

David Vickery

INSPECTOR

William Fieldhouse

INSPECTOR

Appendix A

Legislation and Guidance

UK Legislation

The Planning and Compulsory Purchase Act 2004 (as amended), and the Town and Country Planning (Local Planning) (England) Regulations 2012, can be found by searching on <http://www.legislation.gov.uk>

National Policy and Guidance

The National Planning Policy Framework and Planning Practice Guidance can be found on:

<http://planningguidance.planningportal.gov.uk>

Guidance from the Planning Inspectorate

A detailed guide to Examinations is available at:

http://www.planningportal.gov.uk/uploads/pins/dpd_procedure_guide.pdf

Examination and Submission Documents

The Examination web site can be found at:

<http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/developmentplan/coresstrategypartialreview/examination-partialreview.aspx>

The submission / evidence documents can be found via links on the Examination web page

Appendix B

Hearing Statements

- A. A separate statement should be submitted for each matter identified by the Inspector. You should only answer those questions that relate to the content of your original representation.
- B. None of the statements should be longer than 3,000 words. The Council may exceed this limit if replying to a large number of questions. Any submissions longer than this will be returned by the Programme Officer for editing.
- C. The Council's statements should also deal with any "Matters and Questions" that are being dealt with only by written representations and not at the hearings.
- D. Statements should be on A4 paper, printed on both sides. Any photographs should be submitted in A4 format and should be annotated.
- E. All statements must be headed with the representor's name and be clearly marked, at the top, right hand corner, with the appropriate matter number and representor reference. Representors' statements should be referenced: Matter 1/5 for representor 5's statement on Matter 1. Please contact the Programme Officer if you do not know your number.
- F. Statements must be succinct and answer the questions asked by the Inspectors. There is no need to repeat details made in your original representations, although points directly relevant to the question can be summarised and cross references provided where appropriate. It is the quality of the reasoning that carries weight, not the bulk of the documents. There is no need for verbatim quotations from the Plan or other sources of policy guidance.
- G. Supporting material in the form of appendices to statements should be limited to that which is essential and should not contain extracts from any publication which is already before the Examination – a paragraph or page reference will suffice. Any appendices should have a contents page and be paginated throughout. Anyone submitting appendices should indicate in their statement which parts they are especially relying upon.
- H. Those appearing at hearings should send sufficient copies of all statements to the Programme Officer for issuing to each participant, plus four additional copies. For example, if 10 people are listed for a hearing session, then the Programme Officer will require 14 copies. For written representations, only four copies of statements need to be submitted. One paper copy of each should be left loose-leaf. The remaining copies should be stapled, with no spiral binding. In addition, an electronic copy of statements and appendices should be sent to the Programme Officer (in Word or PDF format) for the Examination website as an email attachment by the deadline below.
- I. The deadline for statements will be published on the Examination website. Deadlines set will be for receipt of paper copies; it will not be acceptable to submit electronic copies only by those dates with paper copies following later. Late submissions and additional material are unlikely to be accepted since this can cause disruption and result in unfairness, and might result in an adjournment of the hearing. If material is not received by relevant deadlines, the Programme Officer will assume that you are relying only on the original representations.