

**WEST BERKSHIRE MINERALS AND WASTE LOCAL PLAN (MWLP)
EXAMINATION**

AMENDED GUIDANCE FROM THE APPOINTED INSPECTOR

Notes

- i. ***This Guidance is amended from the previous version [INSP.2] to accommodate the decision by West Berkshire Council that the Examination Hearings will now be held virtually via Zoom (in common with other Council events) hosted by the Council and the Programme Officer. Full joining instructions will be issued in plenty of time. All other aspects of the Guidance are unchanged.***
- ii. *The following 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 June 2019 (7th Edition) and with the accompanying letter from the Programme Officer (PO) and the Draft Schedule of Matters and Issues attached.*
- iii. *Any changes to detailed guidance or procedure will be communicated via the PO and the Examination website.*
- iv. *Document References in [square brackets] are to the Examination Library List which can be viewed on the Examination web page or obtained from the PO.*
- v. *Items in **bold italic** are for particular note or action.*

Key Dates

Friday 17 December 2021

Position Statements submitted

Friday 7 January 2022

Virtual Hearing Agendas Issued

Tuesday 1 February 2022

Virtual Hearings commence

The Examination web site or the PO should be consulted on further dates and the progress of the Examination

Introductions

1. The appointed Inspector is Brian J Sims BSc (Hons) CEng MICE MRTPI.
2. The Programme Officer is Ian Kemp. The PO is not an officer of West Berkshire Council (WBC) but acts as an independent officer of the Examination, under the direction of the Inspector. The PO is responsible for the organisation and administration of the Examination, keeps the Examination Library and provides the central point of contact for all parties. No-one should attempt to contact the Inspector directly. This is in order to protect his impartiality.

- Contact details for the PO are as follows:

Programme Officer:

Ian Kemp

Address: PO Box 241, Droitwich, Worcestershire, WR9 1DW.

Email: jdkemp@icloud.com

Phone: 07723 009 166

Programme

- The programming of the Examination is as set out under Key Dates at the head of this note and as further explained in the confirmed Schedule of Matters and Firm Programme [**INSP.4**].

Post-submission Documents

- After the submission of the draft MWLP for examination, the Inspector issued a Preliminary Note [**INSP.1**] to WBC relating to the administration of and approach to the Examination with a number of specific questions for clarification. WBC provided a written response [**INSP.1A**].
- The Council has agreed to prepare a traveling draft Schedule of Suggested Main Modifications (MMs). (*see below*)

Hearings

- Virtual Examination Hearings are scheduled to commence on **Tuesday 1 February 2022**.
- Full joining instruction will be issued well in advance and the proceedings will be live-streamed.

Starting Point and Purpose of the Examination

- The basis of the Examination is the West Berkshire Minerals and Waste Local Plan [**CD0001**] as published for consultation under Regulation 19 from 4 January to 15 February 2021.
- The Inspector will first consider whether the WMLP is compliant with the Duty to Co-operate and other legal requirements, as set down in the National Planning Policy Framework as amended in 2021 (NPPF) and in relevant legislation¹.
- Otherwise, the Examination is an independent check on the soundness of the MWLP, concentrated mainly on whether its strategy and development management policies and its aggregate and waste site allocations are justified, effective and supported by a robust evidence base.

¹ The Town and Country Planning (Local Planning) (England) Regulations 2012
The Localism Act 2011 Section 112

Main Modifications and Policies Map

12. WBC have submitted a formal request under section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended) that the Inspector recommends such MMs as may be necessary to make the MWLP sound.
13. Any additional minor modifications not affecting soundness but improving accuracy or clarity may be put forward by WBC but these are not subject to examination.
14. Any suggested MMs are for discussion and consideration during the Examination as part of the evidence.
15. Any proposed MMs will be subject to further public consultation and all representations will be taken into account before any recommendation for the adoption of the MMs is made.

Scope of the Examination – Alternative or ‘Omission’ Sites

16. It is not for the Inspector to seek to improve the proposals of the MWLP or make it “more sound”. The Inspector will make recommendations for MMs only where necessary to ensure soundness.
17. Accordingly, “omission sites” will not be considered directly. That is because the MWLP is the property of WBC, as plan-making authority, and the community. In the spirit of Localism, it is not for the Inspector to recommend specific alternative sites or land uses. Such concerns will be considered with respect to the rationale for the identification and selection of sites. In the event that the MWLP were to be found unsound with the sites it allocates, WBC would be asked to consider and propose additional or alternative sites as MMs to the MWLP for further consultation.
18. Nevertheless, Representors promoting sites not allocated in the submitted draft MWLP have a right for their representations to be considered in support of a duly made representation. However, any objection to the “omission” of a site is, in effect, an objection regarding the site selection process or the deliverability of development or to the MWLP strategy and will be redirected and considered as such.

Participation and Written Evidence

19. Equal weight will be given to the original written responses to the Submission Consultation as to any oral submission. Representors seeking changes to the MWLP therefore need only exercise their right to be heard at a Hearing when they wish to discuss matters with WBC and the Inspector.
20. Nothing will remove the legal right of Representors to participate in a Virtual Hearing. However, as an alternative to a personal appearance, Representors are invited to study the Summary of Issues and WBC Responses [CD0004I] to note how the Council may have dealt with their concerns and then to consider whether to submit a further Position Statement to be considered for consideration by the Inspector. In any event, persons and organisations of a similar point of view are urged to combine together because the Inspector will not allow repetition. The PO will assist in such arrangements.
21. Occasionally, the Inspector may invite comments from a person or organisation who has not expressed a wish to contribute where this would assist the Examination.

Position Statements

22. **Representors intending to take part in Virtual Hearings may submit a Position Statement (PS) for each matter to which their original representation relates.** Alternatively, sole reliance can be placed upon the original representation as all will be taken fully into account. WBC may also submit PSs but may equally rely upon the evidence base, including its responses already published.
23. **PSs must be sent to the PO no later than Friday 17 December 2021,** summarising in **a strict maximum of 3000 words per Matter** the Representor's or WBC position on the issues of concern. No rebuttal papers will be accepted.
24. **The submission of a PS must not be taken as an opportunity to submit new responses or fresh evidence.** The PS must **not** be accompanied by any appendices. **Reliance must be placed essentially on the Original Response to the Pre-submission WMLP, which is taken as the complete case for the Representor.** The only exception is that MMs proposed during the Examination may be addressed.
25. **PSs will only be accepted if they bear the name of the Representor and Matter and Issue(s) to which they relate and are printable to A4 paper format. They will not be accepted with special title sheets or binding.**
26. **One electronic copy of the PSs is required for distribution by the PO to the Inspector and WBC and for posting on the Examination website. No paper copies of the PSs are required unless you are unable to submit them electronically. Please contact the PO if this is the case.**
27. Following this single round of written submissions, the Inspector will not accept further written information from anyone unless he has himself requested it. Any unsolicited items will be returned.

Confirmed Schedule of Matters, and Issues and Questions for Consideration

28. The Inspector has confirmed a Schedule of Matters, Issues and Questions for consideration [**INSP.4**].

Firm Programme and Agendas

29. The Virtual Hearings Programme is essentially the same as the draft provisional face-to-face programme issued previously. An extra reserve day is added for any overruns because virtual sessions will generally not run for longer than two 2.5 hour sessions each day.
30. For each Hearing session, the Inspector will issue an agenda to structure the discussion, no later than **Friday 7 January 2022**. The Agendas will often identify which speaker may be invited to open discussion on any given points.

Conduct of Virtual Hearings

31. Hearings will be inclusive, relatively informal, round table sessions, where the Inspector will lead a discussion on the matters of soundness he has identified from the representations, the evidence base of WBC and his own reading of the documentation. If necessary, the Inspector would deal with the Duty to Co-operate and any other points of Legal Compliance immediately after opening the

first Hearing session but in this case it is not considered that oral discussion of those legal matters will be necessary.

32. Only very exceptionally would any form of cross-examination be permitted and then only in response to convincing submissions in advance that this is essential to the proper testing of the evidence on a particular point.
33. Representors are requested to keep in touch with the PO or via the WBC Examination web page regarding the programme, which could be subject to variation.

Documents and Examination Library

34. The Examination Document Library is available to view via the WBC website or the PO. An updated Library List will be displayed on the website with links to electronic versions of all Documents.

Site Visits

35. Where necessary, the Inspector will carry out site visits to the allocated or safeguarded sites. Personal site visits will normally be unaccompanied.

Report by the Inspector and Close of the Examination

36. The Inspector will not complete his Report until he is satisfied that all Representations and other evidence have been taken into account and that he has gathered all the information he requires to form reasoned conclusions on any matter of soundness or legal compliance.
37. In line with established current practice, the Report will be as brief as possible, consistent with dealing with all matters of legal compliance and soundness and will not rehearse the individual arguments of Representors. The essential focus of the Report will be upon any Main Modifications required to ensure the soundness of the MWLP.
38. The Examination itself will be formally closed on delivery of the Report to WBC.

Brian Sims

Inspector

3 November 2021