TENDRING COLCHESTER BORDERS GARDEN COMMUNITY DEVELOPMENT PLAN DOCUMENT EXAMINATION

EXAMINATION GUIDANCE NOTE FROM THE INSPECTOR

Purpose of the Guidance Note

1. This note provides guidance to representors involved in the Examination of the Tendring Colchester Borders Garden Community Development Plan Document.

2. All representors should familiarise themselves with the contents of the note, in particular those who wish to submit further statements and/or take part in the hearing sessions.

Dates for Hearing Sessions

3. The hearing sessions (which are part of the overall Examination) are scheduled to take place between **Tuesday 7 May and Friday 10 May 2024.**

4. A short break will be taken mid-morning and mid-afternoon, with around an hour for lunch from around 1300 and a finish around 1700. Mobile phones and similar devices need to be switched off when the Examination is in session [they may be used during breaks].

5. A separate session will be held on **each issue** identified in the programme and all sessions are open to the public and the press to observe.

6. The sessions will take the form of **Informal Hearing Sessions**, where several parties are present. This approach will provide an informal setting for dealing with issues, by way of a discussion led by the Examiner. There will normally be **no formal presentation** of evidence or cross-examination.

7. Advocates/legal representatives take part as a normal participant/member of a team, rather than in a traditional advocate's role, as no cross examination or opening/closing statements will normally be permitted.

8. The discussion will focus **on the issues in the programme** and any additional points arising from the written submissions in response to the Council's final consultation.

9. Those present will be asked to introduce themselves. The Examiner may then make a **brief statement** as to his understanding of the issues under discussion and then **invite participants** to make their contribution in response to the points raised starting usually, but not exclusively, with the Council.

10. The hearing will then progress with the Examiner drawing those present into the discussion in such a way as to enable him to gain the information necessary to come

to a decision on the relevant matters. There should be opportunities within the discussion to ask questions of the other parties, with the Examiner's approval, and all involved may join in the discussion, when invited to do so.

The Inspectors role in the Examination

11. My task is to consider the soundness of the plan, i.e., the **Tendring Colchester Borders Garden Community Development Plan Document.** This document was the subject of [Regulation 18] consultation in an earlier format between 14 March – 25 April 2022, and in its modified, current format between 15 May – 25 June 2023. In examining the Plan, I will have regard to the representations submitted in response to both of these rounds of consultation.

12. The National Planning Policy Framework sets out the criteria for determining soundness; namely that the plan is **Positively Prepared; Justified, Effective and Consistent with National Policy**.

13. I aim to work collaboratively with the Council and the Examination participants in a proactive, pragmatic, and solution-orientated manner to deliver a positive social, economic, and environmental outcome for the Borough. However, this does not necessarily mean that the plan will be found to be sound.

14. Following the close of the hearings I will prepare a report to the Council with my conclusions. The Council may formally request that I recommend any main modifications which are necessary to make the plan sound, if it is feasible that such modifications could make it sound. I will deal with broad issues in my report, and not with each individual representation.

15. Any main modifications I consider are likely to be necessary for the plan to be sound will be the subject of formal consultation and potentially considered as part of a revised Sustainability Appraisal and updated Habitats Regulations Assessment. Should this be necessary more information will be provided at that time.

The Programme Officer

16. The Programme Officer (the PO) for the Examination is Andrea Copsey who works independently of the Council under my direction in connection with the Examination. Ms Copsey can be contacted as follows:

    Tel: 07842 643988

    E-mail: copseyandrea@gmail.com

17. The main task of the PO is to act as a channel of communication between all parties and myself; to liaise with the parties to ensure the smooth running of the Examination and to ensure that all documents received are recorded and distributed. Copies of all Examination documents are available on the Examination Website:

    https://talk.tcbgardencommunity.co.uk/examination-library

18. Any procedural questions or other matters that you wish to raise with me prior to the hearing sessions should be made through the PO and please let her know if you have any specific needs in relation to attendance/participation at the hearing sessions.

Progressing your representations on the plan

19. **In examining the Plan, I will give the same weight to written representations as to those made orally at hearings sessions.** Consequently, participation at a hearing session is only necessary if, in the light of the list of Matters, Issues and Questions for the Examination, you have relevant points to contribute to the discussion.

20. Accompanying this note is a list of Matters, Issues and Questions for the Examination. I have identified 9 Matters on which the legal compliance and soundness of the plan depends and for each Matter there are a number of specific questions. These questions will form the basis of the discussion at the hearing sessions and should also be the basis on which any further written statements, to be submitted in advance of the hearings, are prepared.

21. The hearings are open to all to observe, but only those who previously made representations relevant to the matters being considered in response to previous consultations on the plan, and who register a request to participate, will be allowed to speak. If you are in doubt as to which Matter your representation relates to, please contact the PO to discuss this.

22. Notwithstanding any indications you may have previously made, anyone who believes it is necessary for them, and who wishes, to participate in a hearing session should register their interest in doing so with the PO by **Friday 19 April 2024**.

The hearing sessions and further statements

23. Each Matter will be the subject of separate discussion, although the discussion on some Matters may take place over several hearing sessions. The hearings will take the form of a discussion which I shall lead. They will not involve the formal presentation of cases by participants or cross-examination. I shall take account of all written representations already submitted and it is not the purpose of the hearings for these to be repeated. The list of Matters, Issues and Questions will form the agenda for each session.

24. The hearings will be inquisitorial, rather than adversarial. I shall endeavour to progress them in an effective and efficient manner. As part of that process, it is my aim to minimise the amount of material necessary to come to informed conclusions on the issues of soundness. In that way I will conduct a short, focussed series of hearings and, in turn, produce a short, focussed report.

25. The Council is required to produce a further statement for each of the 9 Matters in which it should answer all of the individual questions set out in the list of Matters, Issues and Questions.

26. Whilst it is not a requirement, other participants (those who submitted representations as part of the previous consultations either in support of or objection to the plan) can also submit further statements, but only on the questions of relevance to their original representation.

27. Further statements should be a **maximum** of 3000 words for each Matter and I anticipate that many will not need to be as long as this, particularly those addressing

only a small number of questions. The word limit does not include appendices, but these should only be included where directly relevant and necessary and should also be as succinct as possible. The word limit does not apply to the Council because it is required to answer every question, although I would encourage it to be as concise as possible, providing references to specific sections of the already submitted evidence wherever relevant.

28. In preparing statements you should:

    1. **only** answer the specific question(s) of relevance to your original representation, whilst clearly identifying the number(s) of the question(s) you are seeking to answer;
    2. compile a separate statement for each Matter; and
    3. have regard to the evidence submitted by the Council available on the Examination Website.

29. In turn, in answering each question the Council should have regard to the representations made on the plan of relevance to that question.

30. Whilst they are not specifically invited, Statements of Common Ground between Examination participants on issues of direct relevance to the matters under examination will also be accepted.

31. I am examining the plan as submitted by the Council. Therefore, I will not, at this stage, be considering the merits for development of sites for development not included in the plan ("omission sites"). Should I determine that there is a need for additional or different sites to be allocated, I will, in the first instance, ask the Council to consider how it would wish to proceed with the Examination.

32. Electronic copies of each further statement (and any Statements of Common Ground) should be submitted to the PO by **Friday 19 April 2024**. Unless there are exceptional circumstances it is unlikely that late submissions will be accepted.

33. Aside from these further statements (and any Statements of Common Ground) no other written evidence will be accepted unless I specifically request it. All statements will be posted on the Examination webpage, so that they are available to all participants and anyone else who wishes to read them. Because they will be available in this way they will not be circulated directly to participants. However, anyone who is unable to access them on the webpage may request copies from the PO.

The hearings programme

34. An initial programme for the hearings is attached. A final version of the programme will be published on the Examination web site around two weeks prior to the start of the hearings. It will be for individual participants to check the progress of the hearings, either on the web site or with the PO, and to ensure that they are present at the right time.

35. The hearings sessions will normally run between 0930 and 1700, although you are advised to check the hearings timetable as adjustments to timings may occur to ensure the efficient running of the event.

Site visits

36. 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 representations before, during, or after the hearings. I will do these on an unaccompanied basis other than in the, relatively unlikely, event that I find that I need to go on to private land.

Finally …

37. I emphasise:

- I shall have equal regard to views put orally or in writing;
- the need for succinctness; please respect the letter and spirit of the 3000-word limit in further statements with only limited and directly relevant appendices;
- that your hearing statement(s) should focus on answering the questions I have posed in the Matters, Issues and Questions;
- that you must meet the **Friday 19 April 2024** deadline to advise the PO of your wish to participate in a hearing session; and
- that you must meet the **Friday 19 April 2024** deadline for the submission of further statements in paper and electronic form.

38. Please make the best use of the remaining time before the start of the hearing sessions to prepare for fully participating in the discussions and I look forward to meeting everyone in May 2024.

Graham Wyatt

INSPECTOR