

# **GLOUCESTERSHIRE WASTE CORE STRATEGY**

## **INSPECTOR'S GUIDANCE NOTES**

### **1 Introduction**

- 1.1 The appointed Inspector is Brian Cook. He is a Senior Planning Inspector for the Planning Inspectorate. He is a Chartered Town Planner and holds a BA Honours Degree in Geography, a post graduate Diploma in Town Planning, and is a Member of the Royal Town Planning Institute. He has been appointed by the Secretary of State under Section 20 (4) of the Planning & Compulsory Purchase Act 2004 to hold the Examination into the soundness of the submitted Gloucestershire Waste Core Strategy. He has been involved in waste and mineral planning since 1988, mostly in local government but also with one of the largest environmental consultancies in the UK for a 3 year period prior to joining the Inspectorate in February 2006. He was the assistant Inspector for the examination of the Surrey Waste Plan during 2007, examined the Cumbria Waste and Minerals Site Allocations DPD in 2010 and the South London Waste Plan in 2011. He was also the Panel Inspector for the examination in 2009 of the Partial Review of the Regional Spatial Strategy for the South East-policy M3 Primary Land-won Aggregates and sub-regional apportionment.
- 1.2 The Programme Officer for the Examination is Yvonne Parker, who for the purposes of the Examination, is acting as an independent Officer, under the Inspector's direction, not as employee of the Council. Her contact details are: Yvonne Parker, Programme Officer, Waste Core Strategy (WCS), 2 Priory Court, Burnley, Lancashire, BB11 3RH. Her telephone number is 01282 450522 and her mobile number is 0781 333 4305 and her email is [posltd@virginmedia.com](mailto:posltd@virginmedia.com)
- 1.4 The Programme Officer is responsible for finalising the programme for the Hearing Sessions of the Examination, for maintaining the Examination Library, recording and circulating all material received, and assisting the Inspector with procedural and administrative matters.
- 1.5 The Programme Officer will be able to advise you on any programming queries, and any procedural queries should be addressed to her in the first instance. Any matters which either the Council or anyone else wishes to raise with the Inspector should also be addressed to the Programme Officer initially.

### **2 Purpose of the Pre-Hearing Meeting**

- 2.1 The purpose of the Pre-Hearing meeting is to explain and discuss procedural and administrative matters relating to the management of the Examination, including the programme for the Hearings, the matters to be examined and related issues, the timetable and participants at each of the sessions, how representations will be heard, key dates for the submission of topic papers and further representations, and any other relevant matters. However, the contents or merits of the DPD will not be discussed.

### **3 Scope of the Examination and Inspector's Role**

- 3.1 The Inspector's role is to consider whether the DPD meets the requirements of sections 19 and 24 (i) of the 2004 Act and the associated Regulations, and whether the DPD is sound in terms of being justified, effective and consistent with national policy and the regional strategy insofar as it remains material. The starting point for the Examination is the assumption that the Council has submitted what it considers to be a sound DPD, and the Council should rely on evidence collected while preparing it to demonstrate that it is sound. Representors seeking changes to the DPD have to demonstrate why they consider it to be unsound and how their suggested changes would make it sound.
- 3.2 Representations made to the submitted documents will be considered insofar as they relate to its soundness, but they will not be reported on individually.
- 3.3 The Examination will be closed when the Inspector submits to the Council his report on his conclusions and actions or changes needed as regards the soundness of the document. His recommendations are binding on the Council.
- 3.4 There are several possible outcomes of the Examination of the document. The most serious would be a finding of unsoundness in relation to a critically important part of it, leading to a recommendation that it should be withdrawn. However, less serious outcomes may be that:
- Additional work needs to be undertaken before the Examination can be completed;
  - Part(s) of the document should be excluded or changed (having regard to the implications in terms of community involvement and sustainability appraisal requirements), and the remainder adopted;
  - Part of the DPD should be excluded and subsequently brought forward in a revised form in a fresh DPD, and the remainder adopted.
- 3.5 Ideally, only a limited number of minor changes should be made to the document, if necessary for soundness, at this stage. The Inspector may only recommend a change to the submitted plan if that change is itself sound and meets the requirements for public consultation and sustainability appraisal.

#### **4 Procedural Questions for the Council**

- 4.1 Before outlining the arrangements for the Examination, the Inspector will ask the Council some procedural questions as he will need to be assured that the Council can confirm:
- (i) that the submitted document has been prepared in accordance with the statutory procedures under Section 20 (5) (a) of the 2004 Act;
  - (ii) that the submitted document has been prepared in compliance with the 2004 Regulations (as amended), specifically regarding the publication of prescribed documents, their availability at the Council's principal offices and website, the placing of local advertisements and notification of the DPD bodies;
  - (iii) that the Council is not aware of any fundamental procedural shortcomings concerning the submitted document;
  - (iv) whether and how this Pre Hearing Meeting has been advertised.

- 4.2 The Council is asked to prepare a short document addressing these procedural questions (which are expanded upon in Issue 1 of the Issues and Questions paper) and to place it on the Examination web site not later than **15 November 2011**. This need be little more than a series of signposts to the relevant parts of the Soundness and Legal Compliance Self Assessments already submitted (CD1.12 and CD1.13 respectively). Also included in this document should be the way the Council has dealt with the 'Planning For Growth' Ministerial Statement and the revision to the waste hierarchy, both of which have been issued since the Regulation 27 document was published in December 2010 but before the Focussed Changes were published in June 2011. The revised waste hierarchy is included as Annex C to the revision of PPS10 issued on 30 March 2011. However, the waste hierarchy that appears in the December 2010 version of the DPD does not wholly reflect that now in PPS10 and there is currently no proposal to alter the DPD in this respect. The Council will also be aware of the DEFRA "Guidance on applying the Waste Hierarchy" published in June 2011 and its statutory status and will wish to consider how it responds to these matters.
- 4.3 At the opening of the Hearing sessions the Council will be asked if there is any change to its reported position on any of these matters.

## **5 Representations made on the submitted documents**

- 5.1 The Council advises that some 191 representations were made by a total of 41 organisations and individuals during a 6-week consultation period of 13 December 2010 to 7 February 2011 (Regulation 28 stage) prior to the formal submission of the documents to the Secretary of State under Regulation 30. A further 25 representations from 7 different organisations and individuals were made after the deadline for their submission but the Council has nevertheless accepted them and asked that they be taken into account.
- 5.2 Notwithstanding the views expressed by the representors to the contrary, the Council considers that no fundamental issues of soundness were raised. Nevertheless, a revised version of the DPD incorporating a number of focussed changes was published for consultation between 27 June and 8 August 2011 (CD1.2). This prompted a further 222 representations from 50 individuals and organisations within the period and a further 7 beyond which the Council has again accepted.
- 5.3 The representations made under Regulation 28 to the December 2010 version (CD1.1) cover most aspects and policies of the DPD and the site maps published as the Pre Submission documents under Regulation 27. Those representations made to the June 2011 version (CD1.2) also address most aspects of the document although there is a much greater emphasis on the proposed site allocation at Javelin Park. Both versions of the DPD were included within the submission documentation at Regulation 30 as CD1.1 and CD1.2 respectively.
- 5.4 Following an exchange of correspondence (see CD13.1 and CD13.2), the Council has confirmed that it is document CD1.1 that is to be examined (see Document CD13.2). **However and for the avoidance of doubt all representations made during both consultations will be considered in**

**the examination.** The changes that the Council already proposes to make and which are helpfully shown in context within Documents CD1.2 and CD1.11 will be considered as appropriate during the Hearing session discussions.

## **6 Methods of considering representations**

- 6.1 Those who have made representations on the DPD and consider it to be unsound need to decide whether they want their views to be dealt with in writing or if they wish to present them orally at the relevant Hearing session of the Examination. Both methods carry the same weight and the Inspector will have equal regard to views put to him orally or in writing. Attendance at the Hearings will only be helpful if you wish to participate in the debate.
- 6.2 With reference to the two main ways in which representations on the documents can be considered:
- Written representation – Most representations will be considered by this method and will be based on the original representation made under Regulation 28 and/or to the June 2011 consultation. These will also have helped the Inspector identify the Issues and Questions to be discussed at the Hearing sessions although some arise from his own consideration of the submitted documents. Those people who wish to proceed by written representations can rely on what they have already submitted in writing and need take no further action. Alternatively, having read the Inspector's Issues and Questions Paper they may wish to add a further written representation in support of their position where relevant to those Issues and Questions. Written representations will not be specifically discussed at the Hearings and attendance at the Hearing sessions is not necessary, although all will be public meetings;
  - Oral representations – Where Representors have indicated on their Regulation 28 and other consultation representation form that they wish to be heard, relevant points of their representation will be considered at a Hearing session of the Examination, where the Council and other participants will be able to debate the main points on the key issues, in a structured discussion led by the Inspector.
- 6.3 Whichever method you select, please remember that the Inspector's role is to consider the soundness of the documents in the light of the representations received, rather than considering all the points raised in those representations. Only those parties seeking specific changes to the documents 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, unless they wish to, as observers.
- 6.4 Please note also that the Inspector is unable to consider any representations regarding the residual municipal waste management contract procurement process being undertaken by the Council as a waste disposal authority. This is not part of the DPD proposals although the Council will need to explain how the DPD addresses the delivery of any waste management facilities that may be required.

## **7 Procedure and Programme for the Hearing Sessions of the Examination**

- 7.1 The Hearing Sessions for the Examination will commence at 09.30 on **Tuesday 31 January 2012**, in County Council's Offices, Shire Hall, Westgate Street, Gloucester, GL1 2TG. It is currently intended that all the Hearing sessions will take place there. The Hearing sessions will end on **Wednesday 8 February 2012**.
- 7.2 The sessions will start as indicated on the Hearing Timetable. Sessions will not start before the advertised time and will finish when the business is completed. On all day sessions there will be a break for lunch each day of not more than an hour and each day will finish at about 17.00. Where sessions are timed to run all morning or afternoon short breaks will be taken mid-session.
- 7.3 The Hearing Sessions will take the form of a structured discussion where the Council and those who have been invited to participate will discuss the key issues around a table. This will provide a relaxed and informal setting for dealing with the Issues and Questions. Those attending may bring professional representatives with them, who may ask other participants questions, but there will be no formal presentation of evidence, cross-examination or formal submissions. If the Council or any respondents intend to invite their legal representatives/expert witnesses to any of the Hearing Sessions please would they inform the Programme Officer and provide her with their details so that the necessary administrative and seating arrangements can be made.
- 7.4 The Inspector has set out a range of Issues and Questions on which he needs information or a response from the Council and representors. These accompany this note. They will also be on the Council's Examination website. The discussion at the Hearing Sessions will focus on the Issues and Questions identified which may be added to or amended in the light of further submissions (see section 9 below). The Inspector will make a few brief opening comments on the matters he wants covered in the session. He will then invite the participants to make their contribution in response to the points he has raised. The Hearing Session will progress under his guidance, drawing those present into the discussion in such a way as to enable him to gain the information necessary to come to firm conclusions and recommendations with regards the soundness of the DPD. There will be opportunity in the Hearing Sessions to ask questions, and professional representatives and advocates can also join in the discussion.
- 7.5 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 Inspector will endeavour to progress the Hearing Sessions in an effective and efficient manner. As part of that process, he will aim to minimise the amount of material to that necessary to come to informed conclusions on the Issues.

## **8 Hearings Programme**

- 8.1 The draft Hearings Timetable is attached. The representors listed to participate are those who indicated they wished to do so when making their representations and those who the Inspector considers will assist him at the Hearings. Listed participants should confirm to the Programme Officer as soon as possible, **but no later than 5pm on Thursday 17 November 2011**, that

it is their intention to appear. Other representors who wish to participate, and believe they can contribute to the discussion but have not so far been invited, should also inform the Programme Officer by the same date. The Inspector notes in particular that several individuals who at the focussed change consultation indicated their wish to participate have made essentially the exact same arguments in the same written format. They are encouraged to discuss how they may most effectively put across their views in the Hearing sessions, perhaps by appointing a single spokesperson.

- 8.3 You are invited to contact the Programme Officer not later than **5pm on Thursday 17 November 2011** if you consider that there are other issues that go to the heart of the soundness of the documents and which should therefore be discussed. The Inspector can then consider any changes that may be required to the programme.

## **9 Preparation and submission of further material**

### **Core Documents**

- 9.1 The web page lists the submission documents and will list other Core Documents and further representations and statements as they become available. The Council have established an Examination Library on the web page, which includes web links to those documents. A paper copy of this list can be obtained from the Programme Officer and is also available on the Council's website. Hard copies of all Examination and Core Documents are available for inspection in the Examination Library, which is located in the offices of Gloucestershire County Council, Shire Hall, Westgate Street, Gloucester GL1 2TG, subject to prior appointment with the Programme Officer. The Examination web page may be viewed at: <http://www.gloucestershire.gov.uk/index.cfm?articleid=17992>

### **Topic Papers**

- 9.2 In response to each of the Inspector's Issues the Council will be asked to prepare a full written response in the form of an individual Topic Paper; each Topic Paper will address each Question as appropriate. They should include full and precise references to the evidence base to justify the particular approach taken in the DPD, along with any supporting documentation. They should also include references to any suggested changes considered necessary to make the documents sound, bearing in mind that any further changes suggested at this stage should be assessed against an associated sustainability appraisal and the implications for further public consultation. These Topic Papers will provide the Council's detailed answers to the Inspector's Issues and Questions and will set the scene for the debate at the Hearings sessions. With one exception, the Council's Topic Papers should be submitted to the Programme Officer by **noon Thursday 5 January 2012**. That exception is a Position Statement regarding Issue 2, Question 3, Statistical Base: Landfill. This should be prepared in discussion with Cory Environmental and Grundon and set out the areas where the parties agree, those where they do not and the reasons for that continuing dispute. This will aid the preparation of others' additional statements and the discussion on the day. This Position Statement should be submitted to the Programme Officer by **5pm on Thursday 17 November 2011**.
- 9.3 In addition, two schedules of the suggested changes arising from the Council's responses to the Issues and Questions are required **by 5 January 2012**. The

first schedule will be those changes that the Council consider necessary to make the document sound while the second will be those minor changes that do not go to soundness but which are nevertheless considered necessary by the Council to correct errors and omissions. For the avoidance of doubt the document listed as CD1.3 is part of the submitted DPD documents and has already been subject to consultation. However, the Council is asked to confirm the consultation status of CD1.4 and consider whether this requires any further consultation. Both schedules are likely to be added to following debate during the Hearing sessions and the Council will keep them up-to-date.

### **Submission of further written statements and other material**

- 9.4 The representations already made should include all the points and evidence to substantiate Representors' cases. However, if you wish to submit further evidence in response to the Inspector's Issues and Questions Paper that is relevant to your representation, either for the Hearings or for written representations, it should be sent to the Programme Officer by **noon Thursday, 5 January 2012**. If your representations are to be considered at more than one hearing session, a copy of your further written statement is required for each of the relevant Hearing sessions. If you have not already done so in your representations you must explain how you wish to see the document changed in order for it to be found sound.
- 9.5 The Inspector emphasises the need for succinct submissions, avoiding any unnecessary detail and repetition. There is no need for verbatim quotations from the DPD, or other sources of policy guidance. Nonetheless, it is vital that the fundamental elements of cases are set out clearly, since the Hearings are not the place for new points or evidence to be presented for the first time. Please note that it is the quality and substance of the reasoning that carries weight, not the bulk of the documents. Where it is considered essential to refer to a document that has been published since the submission documents themselves were published at the Regulation 27 stage, clear reference should be made to the relevant passage with **4 copies** of the document plus any available web link being provided to the Programme Officer.
- 9.6 Those appearing at **Hearings** should send sufficient copies of all statements to the Programme Officer for issuing to each participant, plus 4 (for the Inspector, the Council and Library), eg. If 8 people are listed for a Hearing session, then the Programme Officer will require 12 copies. However, it may be possible to exchange everything electronically if the parties agree and this will be discussed and agreed with the Programme Officer once the parties have agreed who is participating at the Examination. For **written representations** only 4 hard copies of statements still need to be submitted.
- 9.7 A separate statement in response to each of the Inspector's Issues (or individual Questions within an Issue as appropriate if you do not wish to comment on the whole Issue) that you wish to address should be submitted. One copy of each should be left loose-leaf, the remaining copies should be stapled with no spiral binding. In addition, an electronic copy should be sent to the Programme Officer as an email attachment by the same deadline.
- 9.8 Statements should:
- (i) Be no longer than **2,000 words** for any one Issue, either for a Hearing session or further written representations. Statements which are excessively long or contain irrelevant or repetitious material may be

returned. The **only** exception to this word limit will be where the Council, which must respond to all Issues and Questions, would be otherwise unable to provide the proper background information to facilitate the debate;

- (ii) Be A4 size in portrait orientation, with any plans folded so as not to exceed that size;
  - (iii) Technical evidence should be limited to appendices, and should be clearly related to the Issue and/or Question. Any supporting material should be limited to that which is essential and should not contain extracts from any documents that are already in the Examination Library, although these should be fully cross-referenced (CD number and paragraph) if referred to. All statements should focus on the elements of soundness; justification, effectiveness and consistency with national policy and the regional strategy as appropriate, and they should specifically demonstrate how the submitted documents are unsound;
  - (iv) Clearly indicate the change required by the representor which they consider would make the document sound.
  - (v) There is no need for summary statements.
- 9.9 Statements should be headed with the representor's name and be clearly marked, **at the top, right hand corner**, with the appropriate Issue number and representor reference. The Council's Topic Papers should be separately referenced WCS/ followed by the Issue number (e.g. WCS/Issue 1). Representors' statements should be referenced: Issue 1/1234 for representor 1234's statement on Issue 1. If you would like further details on referencing please contact the Programme Officer.

## **10 Site visit arrangements**

- 10.1 The Inspector will visit most of the sites and locations referred to in both the DPD and the representations and he will make a familiarisation tour of the area prior to the Hearing Sessions, on an unaccompanied basis. Where he considers that an accompanied site visit is required the Programme Officer will make the necessary arrangements. If, exceptionally, there are particular reasons for an accompanied visit, participants should discuss these with the Programme Officer.

## **11 Close of the Examination**

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

## **12 Submission of the Inspector's Report to the Council**

- 12.1 The Inspector will announce the date when he expects to submit his report to the Council at the last Hearing Session.

## **13. Matters Requiring Early Clarification**

- 13.1 Early into the Examination the Inspector identified a number of concerns regarding a procedural matter (see paragraph 5.4) and the soundness of the DPD upon which he requested early clarification from the Council. At the Pre-Hearing Meeting the Inspector will ask the Council to briefly outline its



response on these matters in order that any implications for public consultation and the draft Hearings timetable can be considered.

#### **14 Questions**

- 14.1 The Inspector will then invite questions from the Council and attendees about the procedure and management of the Examination.

#### **15 Pre-Hearing Note**

- 15.1 The Pre-Hearing Note will comprise a summary of the Council's response to the Inspector's request for early clarification of some matters that may have implications for the soundness of the documents, a summary of any questions from the Council and other attendees of the Pre-Hearing Meeting about the procedure and management of the Examination together with the Inspector's responses, the final Hearings Timetable and a summary of Key Examination dates.

*Brian Cook*

Appointed Inspector