

# First Aid for Planning

## Participating in the Examination in Public<sup>1</sup>

### Who is the toolkit for?

This toolkit helps you prepare a representation to the Examination in Public (EiP) of a Local Plan. The toolkit explains the basics of the EiP process and includes tips on how best to prepare your hearing statement for the examination. Sources of evidence you can use for your statement are also signposted. If you want a full overview of the examination procedure, have a look at the suggested further reading. The toolkit covers the following topics:

- What is an Examination in Public?
- What does the process look like?
- Key dates and actions
- Using your representation when preparing a statement
- How the hearing works
- What happens after the hearings
- Further reading

### What is an Examination in Public?

Preparing a statement to the examination of a Local Plan can be an important way to raise concerns about the future of your area. The hearing sessions are an opportunity for you to raise concerns about the Local Plan, and present an alternative policy or site allocation.

Local planning authorities (LPA), usually your council, prepare Local Plans to guide future development in area; they include policies on topics such as housing, design and infrastructure. Local Plans contain strategic policies and more detailed policies for specific areas. They also identify sites for development. Once the LPA has prepared and consulted on the Local Plan, the plan will be submitted to the Secretary of State. An Inspector from the Planning Inspectorate is then appointed to conduct the Examination in Public (EiP). You find a full overview of the Local Plan process in the [Further reading](#) section.

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<sup>1</sup> An earlier version has been produced for Southwark Planning Network (SPN), a network of citizens community action groups in Southwark. Planning Aid for London (PAL) would like to thank SPN for their feedback, as well as our volunteers for their input.

## Assessment of the Local Plan

During the EiP the Inspector will assess the Local Plan; they will examine if the plan has been prepared following the legal and procedural requirements, and if the plan is sound. The National Planning Policy Framework (NPPF) defines the four tests of soundness (see full criteria in paragraph 35). Any Local Plan should be:

- **Positively prepared** and seek to meet the identified needs in the area
- **Justified** and reasonable alternatives should have been considered
- **Effective** in delivering over the plan period
- **Consistent** with national policy and planning legislation

The Inspector will consider your representations to the examination and those from other interested parties when assessing the Local Plan. Before the EiP, the Inspector determines what will be discussed during the hearing sessions. These are the Matters, Issues and Questions (MIQs); they address specific aspects of the plan that the Inspector wishes to further examine.

## Purpose of the EiP

Following the examination, the Inspector will produce a report in which they will recommend whether the LPA can adopt the Local Plan. The Inspector can suggest that changes need to be made to the plan, so that the plan meets all the relevant legal requirements and criteria. The LPA can only adopt the Local Plan after the changes required by the Inspector have been made.

## What does the Examination in Public process look like?

The Inspectors, who lead the examination of the Local Plan, will invite the public to participate in the examination. Before the examination takes place, the Inspectors decide on the timetable of the Examination Hearings, during which the Matters, Issues and Questions (MIQs) will be discussed. Participants usually have 2-3 weeks to prepare their statements. You should submit these before the deadline, which is set by the Programme Officer (PO). **If you have previously made an objection to the consultation of the Local Plan in which you suggested changes to the plan, you have a right to be heard at the hearings.** During Local Plan consultation, the Local Planning Authority (LPA) makes a copy of the proposed plan available to the public, who are then invited to make a representation to share their views. After the consultation, the LPA will submit the proposed plan to the Secretary of State who appoint examiners from the Planning Inspectorate to examine the plan in public.

You need to confirm to the PO whether you would like to participate in the Examination Hearings in person. The Inspector will then invite representatives to speak at specific hearing sessions. The Inspector (via the PO) will ask representatives for a final written statement, in which you will need to submit your final arguments in the form of a response to the Inspectors' questions in the MIQ for that Hearing session.

Because of the Covid-19 pandemic, examinations have been taking place online, usually via Zoom or Microsoft Teams. You can usually dial in by phone to listen to the hearing sessions if you do not have access to a computer. If you require assistance to attend or participate in the hearings, you need to contact the PO.

### Key dates and actions for the New Southwark Plan

If you want to participate in the examination process, you need to be aware of two key deadlines:

- The date by which you need to confirm you wish to be heard at the Examination Hearings. You confirm with the Programme Officer (PO) that you want to be heard by the Inspector.
- The date by which any written statements in response to the Inspectors' questions need to be submitted to the.

You can find these dates on the website of the council in the examination library. The Inspectors will give equal weight to a written or an oral statement; you can decide not to participate in the hearings and still send a written statement to the Inspectors. All documents considered by the Inspectors are available in the examination library on the website of the council. Each document has been assigned a code (for example: EIP88). The library includes all documents that can be referred to at the examination; a document that has not been included in the library cannot be discussed during the examination. As the examination progresses, more information about the hearing sessions will be published in the library, so you should check the library regularly.

### Key documents in the library

Key documents in the library that will help you understand how the examination will take place are:

- The Inspectors' Matters, Issues and Questions (MIQs) document. Your statement(s) need(s) to respond to one or several of the questions and points raised by the Inspectors.
- The Examination timetable for the hearing sessions. Additional information the hearings will be published by the council. You can also contact the PO for further information.
- The Guidance Notes produced by the Planning Inspectorate, which include further detail on the examination. **Make sure you adhere to this guidance when you participate in the examination.**

Always check if a new version of a document has been uploaded, so you have the most recent information. It is also worth checking the notices that are listed on the front page of the examination library; any updates on the examination process are listed here.

### Using your representation when preparing a statement

When preparing a written statement, it is important to concentrate your arguments. Rather than trying to repeat your representations to the previous consultations of the Local Plan, you need to work out the key concerns that you had and whether these are still relevant to the latest draft of the Local Plan. You should **see how those concerns can be brought out in answering the Inspectors' questions for the hearing session you are attending** (the MIQs). Your statement must be based on the policies you have previously objected to.

Bearing the above in mind, you should briefly state in your statement (a summary should be sufficient):

- Which part(s) of the Local Plan is/are unsound
- Which of the soundness criteria it fails to meet (see [What is an Examination in Public?](#)) – or read the full criteria in paragraph 35 of the National Planning Policy Framework [here](#).

Then **focus your statement** on the following two key points:

- Why it fails (point to the key parts of your original representation, but do not repeat them) – relate them to the Inspectors' Questions.
- How the Local Plan can be made sound by suggesting changes to the plan text for policies (the numbered sentences at the beginning of the policy section) or the 'Reasons' for those policies.

When preparing your statement, as a local person or a community representative it is worth giving local or site-specific examples of how the proposed policy will impact your area of concern. This is just as useful if you focus on a thematic policy or a specific area in your borough. Referring to a local example, can offer new evidence for the Inspectors to consider.

In your statement you should make clear whether you are broadly in favour of the plan, but feel it requires some improvement; or if issues with the plan are substantial and mean it is not sound or legal, and that under no circumstances should it be adopted. This is partly a tactical decision and you may want to coordinate this with other groups and individuals. Whether you are broadly in favour of the plan or not should depend on the soundness tests, how strong is your evidence, how consistently your points have been made in previous consultations, and whether implementing your conditions will result in the improvement you wish you see. Bear in mind that for the strategic policies in the plan, the soundness tests are applied in a proportionate way; it may be harder to argue that strategic policies are unsound.

You can both reject (a part of) the plan, and still express conditional support. For example, you could formulate your argument as “I consider the policy unsound for the above reasons and it should not form part of the Local Plan. However, if the Inspector disagrees and considers it sound, I request the following changes...”.

### Preparing the statement

When you prepare a written statement in response to the Matters, Issues and Questions (MIQs) of the Inspectors, it is important to have a look at **The Guidance Notes**. It is worth emphasising the following:

- Each written statement **must address one specific matter**. You may have to submit multiple statements if you want to comment on several MIQs, using your previous representations.
- **Do not repeat your representation** but reemphasise the key points in your representation. The Inspectors have a copy of the representations you made during the consultation.
- **Read representations made by others**, and the council officers’ responses, to the policies you have objected to. This helps you to focus your points.
- Suggest text changes to the policies of the plan in your statement.

- **Written Statements should not exceed 3000 words per matter.** This is set out in national guidance by the Planning Inspectorate and will keep the examination accessible and efficient for all.
- **Do not include links to webpages** in your statements. Instead, where possible refer to the document by the EIP number.
- National guidance for Local Plan Examinations, including on how to prepare a hearing statement, is available [here](#).

In [Appendix 1](#), you find a step-by-step guide for how to prepare your written statement (at the end of this document). The appendix includes an example as well. When preparing your statement, you could use one of the following arguments to make your case:

- Robust evidence from [cite the source] justifies a different policy approach than taken in the Local Plan.
- Refer to other London Boroughs that have policies in their Local Plans similar to what you are suggesting. This will add weight to why the council should change its approach.
- You list the legal reasons why a policy in the Local Plan is unsound, showing its wording contradicts planning legislation.
- The evidence base underpinning a policy in the Local Plan is flawed. For example, parts of the Integrated Impact Assessment (IIA) conducted by the council have failed to meet the required standards and/or the plan has failed to take into account the findings and recommendations of the IIA (see below).
- Consultation on the Local Plan was not in line with the adopted Statement of Community Involvement (SCI), which sets out how the council will consult the public on the new plan.
- A policy is out of line with national policy or the London Plan on the same topic. You can find national planning policy in the National Planning Policy Framework, available [here](#). The New London Plan, which sets out London's regional planning policy, is available [here](#).

### **Using evidence for your statement**

Remember to **always cite evidence** to back up your views when you prepare your statement. You might use evidence from the following documents:

- The Local Plan Policy Map. The map defines how the policies and site allocations listed in the plan will apply to different areas of the borough.

If you have concerns about the map (and what land lies in, or out, of a policy area), you should raise them in your statement.

- The Local Plan Integrated Impact Assessment (IIA). The IIA assesses the impacts of policies and site allocations on sustainability objectives, public health and different equality groups. The IIA contains the following assessments:
  - Sustainability Appraisal (SA), which considers how economic, social and environmental objectives are met, and how unavoidable adverse impacts are mitigated.
  - Strategic Environmental Assessment (SEA), which looks at the environmental implications of the proposed policies.
  - Equalities Analysis (EIA), which considers the impacts on different equality groups protected under the Public Sector Equalities Duty.
  - Health Impact Assessment (HIA), which looks at the impacts of the plan on physical and mental health of different population groups.

It is useful to look whether the policies in the plan are in accordance with the underpinning evidence base in the IIA.

Always cite evidence clearly in your statement, referring to the paragraph or the page of the document you rely on. You should not have to copy large sections of the evidence into your statement.

### **Statements of Common Ground**

Statements of Common Ground (SoCGs) are intended to help the Inspector during the examination by setting out what areas you, the council and the other interested parties agree on. SoCGs can bring focus the discussion on key issues. The council usually organises discussions on possible SOCGs. You should contact the planning department of the council and request further information as soon as possible. Agreed SoCGs should be submitted to the Programme Officer at least a minimum amount of time before the relevant hearing session.

A SoCG sets out where the council and objector have points of similar and different interests. When the council is preparing the SoCGs, you will be asked to join for a meeting with the council; at the meeting you (the objector) will have to set out your main points (or position) of agreement and mention your differences with the council's position. Each statement needs to be finished two weeks before the relevant hearing session.

Reading the representations submitted to the Local Plan consultation from others will give you an impression of who your allies are likely to be. It is always worth trying to connect with potential allies to share resources and tactics.



## The hearing sessions

Key attendees of the hearing are the Inspector, who leads proceedings; the Programme Officer (PO) who assists the Inspectors; officers from the council and representors who oppose/wish to change certain parts of the plan. Members of the public and other interested parties also have the right to attend.

If you are representing a community group and multiple people from the group wish to be part of the discussion, it is possible to swap in and out with members of the same organisation. For online hearing sessions, we recommend you confirm your wish to do this with the PO prior to the session.

### The format

Hearing sessions are inquisitorial rather than adversarial. Representors will not be cross-examined; the focus is on the Inspector **exploring** already identified issues by hearing various views on the topic. Rather than reading out your statement in its entirety, you should highlight the key points in your statement. The Inspector is likely to ask questions about parts of your statement, allowing you to expand on your topic.

During each session, you can expect the Inspector to open with introductions, then invite officers from the council to provide an opening statement on the topic(s) to be explored. The Inspector will then guide discussion as efficiently as possible, adhering to the agenda, and directing questions to relevant participants with a strong focus on the matters in question.

It is important to indicate you wish to speak at the outset of a hearing session by upending your nameplate or pressing the correct Teams button, even if you then, having listened to other speakers, simply say you fully support what has been said before. Do not repeat what others have said previously. It is useful to take note of what the Inspector is noting down.

The hearing sessions usually take place during working hours. If you are unable to attend because of this, you can request to the Programme Officer if you can still make a representation outside of the usual hours of the hearings.

### Preparing for the hearing sessions

When you speak at a hearing session, it is important you familiarise yourself with the arguments from other speakers by reading their representations (available



in the examination library). Remember to check if any representations were made on the policies, that you want to speak on, during previous consultations. New statements and other documents can be made available by the Inspectors, so you will have to check the examination library often for new uploads. The Inspector will assume you are aware of the arguments from other speakers at the hearing session. You can ask, by contacting the Programme Officer (PO), for documents you want the Inspectors and others to see to be uploaded to the library.

Community groups and members of the public need to be both organised and flexible when participating in the hearing sessions. It is useful to nominate a person who is best positioned to represent shared arguments. This might not be the person who has done all the background work leading up to the examination. It is also useful to have a nominated scribe who can highlight the points others have made that need to be rebutted by the speaker.

As the hearings are all online, you might want to share phone numbers with other community group members, so you can easily communicate. It can be a great help to have two or three main speakers/team members in the same place to share a laptop (if allowed under Covid-19 restrictions!).

Before you speak, make sure you know the reference numbers (for example, EIP88) of the documents, and use them in your statement. Work out whether you require printed copies of extracts you intend to refer to – you will need to say ‘page X of document Y 4th bullet point’ when referring to a document – or whether you can find these online while speaking. Preparation is key.

If you do need to submit any **last-minute documents**, introduce them as early as possible (discuss this with the Programme Officer (PO)). Explain why they are late, provide copies by email and ask the Inspector to accept the documents. The Inspector will consult with other main parties. If your request is accepted, the PO will upload these to the website.

### **Final tips for speaking at hearing sessions**

- Decide whether you need to make a further written statement in response to the Inspector’s Matters, Issues and Questions. You might

benefit from reframing your line of argument in preparation for the hearing session. You should not introduce new evidence during the hearing sessions, but instead include this in the written statement submitted to the Inspector.

- Be as concise as possible
- Do not simply repeat your written representation; try to bring your issue or concern to life in response to the questions the Inspector poses. Describe how negative impacts would play out locally, always ensuring you back up statements with evidence.
- Familiarise yourself with relevant policies, any updates and material cited as evidence.
- Find out who else is speaking at the hearing; what organisation do they represent? What are the key points they raised in their representation? Did they write a statement responding to the Matters, Issues and Questions?

Finally, Inspectors have clear guidelines on what is and is not relevant to the examination. When objectors give less concise speeches with many irrelevant points, the Inspector can and will intervene. It is good to remember that the Inspector is impartial and does not work for the developer or council. You can introduce yourself as a non-professional, and the Inspector and other participants will not expect you to know everything they do. A focussed presentation backed by intimate local knowledge really adds to Inspectors understanding of the unresolved issues!

### After the examination

After the hearing session, the council and the Inspector will deliberate further, and the Inspector may or may not decide to recommend modifications to the new Local Plan. The Inspector may publish an interim report during the examination, in which they recommend modifications to the plan required to make the plan sound.

The final report will only be issued by the Inspector once the council has consulted on any main modifications. Before the final report is issued, the Inspector will have to consider any representations on these suggested modifications. The final report will also be reviewed by other Inspectors at the Planning Inspectorate. The final report is usually published 3 to 4 months after the Examination Hearings have closed.

If the Inspector's report is positive, the Local Plan is usually adopted at a full council meeting within 8 weeks after the report is issued. If substantial changes to the Local Plan are needed to make the plan sound, the council is likely to withdraw the plan.

### Further reading

Friends of the Earth, Local Plan Examinations: A Campaigners Guide (2020)

<https://friendsoftheearth.uk/system-change/local-plan-examinations-campaigners-guide>

Friends of the Earth, Local Plans: A Campaigner's Guide (2020)

<https://cdn.friendsoftheearth.uk/sites/default/files/downloads/Local%20Plans%20Guidance%20June%202020.pdf>

The National Planning Policy Framework

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Procedure Guide for Local Plan Examinations

<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>

Local Plans: the examination process

<https://www.gov.uk/guidance/local-plans#introduction>

Glossary of planning terms by the Planning Portal

[https://www.planningportal.co.uk/directory/4/a\\_to\\_z](https://www.planningportal.co.uk/directory/4/a_to_z)

Publication London Plan December 2020

<https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/publication-london-plan>

## Who is Planning Aid for London?

Planning Aid for London provides free advice and training on town planning to individuals, community groups and voluntary organisations in London, who are unable to afford professional advice. We help people understand and get involved in planning processes that affect their neighbourhoods, such as housing development, land use changes and regeneration projects.

We are a charity committed to supporting members of the public looking to make their voice heard in planning decisions.

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## Appendix 1: step-by-step guide for preparing a written statement

The step-by-step guide helps you prepare for your written statements and includes useful examples. The examples have been based on the New Southwark Plan (January 2021), which has examined in February and March 2021. They refer to policies that have been included in the New Southwark Plan (NSP).

### STEP 1: review your representations and get your thoughts down on paper

#### What to do:

- Start by mapping out all the points you raised in previous reps against the MIQs.
- Check how many matters your concerns relate to. If they span two matters, then you could submit two 3,000 word statements if you wished.
- Review the council's position since you submitted your rep – has it changed?

#### What not to do:

- Don't just write out all your previous representations in full.
- Don't write more than 3,000 words per matter. This is in national guidance, and over long statements may not be well received.

#### Example:

Previous representation states:

On policies SP6 Cleaner, greener, safer and P59 Biodiversity: "I do not consider these policies to be sound because they are not robust enough to withstand the continued loss across the Borough of biodiversity, green space and natural habitats resulting from redevelopment"

On policy P58 Green infrastructure : "The change adds the importance of walking and cycling networks and a "sense of ownership for all". This is unsound because there is no sense of how these aspirations will be delivered. There is no data of what exists now in terms of these networks, no target for their extension, and no mention of green routes which are well established in Southwark (this would be a more appropriate terminology given this is the green infrastructure policy). Ownership is mentioned, but with no guidance on how residents will be able to

participate. Public consultation and engagement with citizens are conducted on strategies and projects to deliver urban greening in plan making and development management processes. A sense of ownership for all is created from a connection and appreciation of a space, as well as contributing to its development. To be sound, there should be a substantial citizen science component, with a developer contribution to Green Infrastructure and Biodiversity review panels. This would mitigate the loss of expertise on these issues within the Local Authority, by bringing together active citizens and specialists.”

Mapping these to the relevant MIQs reveals:

- On balance it all sits within Matter 7, so there’s a 3,000 word limit on your rep.
- (Matter 1 asks about the updated Habitat Regulations Assessment but on checking the Natural England letter referred to, there is no means of expanding the points here. It would be possible to refer to green infrastructure against q1.10 but there will be a limited amount to say because climate change was not cited in the original rep).
- Answering Q7.5 and Q7.6 will be key. 7.6 in turn could allow you to answer Q7.4 on open space. Q7.4 seems to find Southwark Council’s approach to two types of open space (“Other Open Space”, which appear to include allotments, and “Borough Open Land” under Policy P56) problematic and is inviting the council to provide new policies in the NSP and/or revisions to the policy map, or make ‘main modifications’ (see q7.22). This makes it quite a strong candidate to ‘join in on’. Questions 7.20, 7.21 and 7.22 could also be responded to.
- Questions 7.24 to 7.26 (and 7.28) are quite narrowly framed and are in essence querying how deliverable these are for developers. So you could respond to these in a supportive way by including evidence that these contributions will halt the green infrastructure and biodiversity losses you refer to in your original rep; and evidence from other Local Plans showing these have been found sound. (This in turn might allow a response to Q9.10 on monitoring – again a bit of a stretch).
- Q7.27 asks about compliance with the NPPF. You could respond to this by identifying why going ‘beyond’ the NPPF is important locally, by reference to biodiversity losses/development pressures/growth forecasts and other evidence.

There is no need to do all of the above! Some of these points would require quite a lot of time input while potentially not adding a great deal to the points

made. But it is to show you that it is possible to expand the evidence and relevance of your original rep while remaining “related” to your original representation.

## **STEP 2: assemble evidence and critique**

### **What to do:**

- Review your evidence, including your documents, statistics, imagery, surveys, contemporary notes, previous correspondence. Simple site-specific examples can be compelling. The strongest points in examination will be those with evidence.
- If you have questioned the council’s evidence previously, check if they have come up with evidence that you need to respond to.
- Include reasoned argument by a local person/community representative about what

has/has not worked in the past, and site-specific examples of how the proposed policy will impact the area. This will be more engaging and may bring unseen perspectives to the attention of the examiner.

### **What not to do:**

- Don’t forget to include evidence that you want to rely on at hearing stage – new evidence can’t be introduced at that stage.
- Don’t underplay local insights and experience.

## **STEP 3: collaborate and consider your tactics**

### **What to do:**

- Identify who has made similar points to you. Can you help each other with evidence? Can you align your points while providing different evidence? Do you agree on the tactics (e.g. do you both think the policy needs a

complete rewrite or just an improvement?)

### **What not to do:**

- Don’t leave it too late to collaborate with people who share common views on the issues and the solutions/tactics.



## STEP 4: write your statements

### What to do:

- If you are fundamentally opposed, then you would (if you have evidence) argue that the policy is unsound and suggest new wording for the numbered policy or the 'reasons' – or both. By reference to the MIQs, state which part(s) is/are unsound. Which of the soundness criteria does it fail on? Why?
- If you are broadly in favour of the policy but seek some improvements, this is OK too – make clear you don't consider it unsound and suggest slight wording changes to the policy wording, or the reasons, or perhaps add a 'fact box' to ensure that local context is included in the NSP.
- Keep in mind that the strategic policies (SP1-6) [and possibly the area visions – which are "strategic vision"] will have the soundness tests applied in a 'proportionate' way whereas the development management policies/site allocation policies/implementation policies will have the soundness tests applied more stringently.
- 'Reasons' and fact boxes will be used to interpret the

policies in the future, so they will have some influence over development in the future.

- Include your evidence. Read any notices on privacy.
- Read the Guidance Notes and the national guidance for Local Plan Examinations, available [here](#).

### What not to do:

- Don't 'expand' into new points that do not relate to your original representations. You can broaden the evidence and the reasons for your points but you cannot bring in completely new points.
- Don't use a large part of the 3,000 word count on policies you consider sound!
- It is best not to write solely about the Strategic Policy or the Area Vision without relating your concerns to the development management policies or site allocations or implementation policies.
- Don't include links to webpages in your statements, instead refer to the document by the EIP number. Don't include personal identifiable information (e.g. the health status of someone) without consent.

## **STEP 5: give it a read through and submit it by the deadline**

### **What to do:**

- Try not to leave this to the last minute as a read through (the next day) will help you write a concise, engaging, and persuasive statement. Ask a friend or a collaborator to review it.
- Review your tactics. You might decide that your original tactic (e.g. to say the policy wasn't sound) isn't strong enough. You can deal with this expressing conditional support. For example, you could formulate your argument as "I consider the policy unsound for the above reasons and it should not form part of the NSP. However, if the Inspector disagrees and considers it sound, I request the following changes...". Or you might upgrade your previous 'improvement' suggestions into saying that the policy is unsound – if the evidence is there.

### **What not to do:**

- It is generally best not to ask someone else to write it all for you, as the process of writing will help you marshal your arguments for the hearing (if you choose to appear at the hearing). There is no need to be very formal or excessively courteous, or in a way that you wouldn't normally write in, say, a consumer or business situation.
- Don't forget to include any evidence you want to rely on in the hearing.