

AREA PLAN FOR THE EAST – NOTE OF THE PRE-INQUIRY MEETING HELD ON 18 JULY 2019

Introduction

- 1 Mr Michael Hurley said that he had been appointed as the Inspector who will hold the public inquiry into the Area Plan for the East. The Draft Area Plan had been published in May 2018; and there had subsequently been an opportunity for interested persons and organisations to make representations to the Cabinet Office about it. An inquiry was now to be held into the Draft Plan, in accordance with the provisions of Schedule 1 to the Town and Country Planning Act 1999.

- 2 Mr Hurley explained that he had been a professional town planner for over 50 years. Prior to retiring from salaried employment, he was an Assistant Chief Inspector in the Planning Inspectorate for England and Wales. Since retiring, he had worked as a Consultant to the Planning Inspectorate in England, to Governmental bodies in Northern Ireland and the Channel Islands, and to the Isle of Man Government, mainly in connection with the consideration of appeals against decisions on applications for planning approval, and in holding inquiries into development plans. He lives in England.

Programme Officers

- 3 He will be assisted in dealing with the administrative arrangements for the forthcoming inquiry by Mr Andy Johnstone and Mr Andrew Joyce. Mr Johnstone and Mr Joyce both work in the Cabinet Office, but will be responsible to the Inspector for their actions in connection with the inquiry. Mr Johnstone will be responsible for arranging and up-dating the inquiry programme; managing inquiry documents; and arranging for material relating to the inquiry to be shown on the Cabinet Office website. He will also accompany the Inspector on site visits; and will act as a channel for communication between inquiry participants and the Inspector, when the inquiry is not sitting.

His phone number is 01624 685204; his email address is andy.johnstone@gov.im; and his postal address is the Planning Appeals Office, Cabinet Office, Third Floor, Government Office, Bucks Road, Douglas, IM1 3PN.

Registration

- 4 The Cabinet Office has published its response to the representations made during the consultation process, and this includes a Schedule of Proposed Changes to the draft Area Plan, which should be read with the updated All Sites List. The Inspector has asked that persons wishing to make representations to the inquiry about the draft Plan (or about the Proposed Changes) do so by submitting a Registration Form to Mr Johnstone by 25th July 2019. It is important that they register by the due date, so that an inquiry programme can be arranged, indicating the times at which the various participants will be heard.

Evidence

- 5 Objectors (and others making representations) may wish to support their submissions with written evidence. This should be submitted by 16th August 2019. For ease of reference, paragraphs and pages in the written evidence should be numbered. Where possible, written evidence should be typed using a font size of 12 or larger.
Plans, photographs and other illustrative material should be in an A4 format, or capable of being folded to A4. If written evidence is to be submitted about a number of different proposals, a separate document should be prepared for each, rather than binding evidence concerning different matters into a single volume. If possible, three copies of each evidential document should be submitted. Written evidence submitted will be published on the Gov.im website <https://www.gov.im/about-the-government/departments/cabinet-office>
- 6 It should be noted that the policies and proposals in the draft Land Use Plan are at a fairly high level, and it will seldom (if ever) be necessary to submit evidence in such detail as would be appropriate to support a planning application or a planning appeal. However, objectors seeking changes to the draft plan should explain precisely how they would like

the Plan to be modified, specifying any existing wording that they would wish to see deleted; any new text that they would wish to see inserted or added; and showing, on a drawing, any changes that they would like to see made to any map.

Attendance at the inquiry

- 7 Any interested person will be entitled to be heard at the inquiry. However, those who have indicated that they wish the Inspector to consider their representations will be under no obligation to attend the inquiry, but may be content to rely on their written submissions, which I will take fully into account. Those wishing to participate in the inquiry may attend in person, or may be represented by somebody that they instruct to speak on their behalf (including a lawyer/advocate, a town planning consultant, some other professional person such as an architect or engineer, or any other person); and they may call witnesses to give evidence in support of their case.

- 8 At the inquiry, written evidence which has previously been submitted to the inspector will normally be taken as read. Participants may wish to make a short introductory statement, highlighting their relevant arguments, and elaborating on their evidence as necessary. However, the main purpose of the inquiry will be to facilitate the critical examination and questioning of the arguments and the supporting evidence, including the material produced by the Cabinet Office in support of the draft plan.

Arrangements for the inquiry

- 9 The inquiry will be held in public, in accordance with Schedule 1 of the Town and Country Planning Act 1999. It will begin at 9.30 am on Tuesday 10th September 2019. The venue for the inquiry has not yet been decided but will be announced in due course, and advertised on the Cabinet Office website and in the Isle of Man Courier.

- 10 The inquiry will usually sit on each weekday, starting each day at 9.30 am. It is expected to run for three or four weeks. However, the Programme may include provision for a break part way through the inquiry. It is not the usual practice of the Inspector to sit after 5 pm. There will be a lunch break at about 12.30 each day, and also short (15 minute) adjournments midway through each morning and afternoon session.
- 11 Neither the Inspector nor the Cabinet Office would be averse to holding evening sessions of the inquiry, should there be sufficient demand, subject to the availability of suitable accommodation. Nor would they resist proposals to broadcast the proceedings. However, the Cabinet Office does not propose to make an audio or typescript record of the Inquiry, but there would be no objection to members of the public making their own recordings.
- 12 A questionnaire has been sent to each of those who have submitted objections or other representations, asking whether they will wish to speak (or be represented by an advocate) at the inquiry; whether they will be calling any witness(es) to give evidence; and roughly how long they expect to need to present their case. A separate questionnaire should be completed in respect of each different topic raised (so somebody objecting to four different proposals or pieces of text should complete four separate forms).
- 13 The questionnaire also asks whether different people making similar representations about a particular matter would be prepared to make common cause at the inquiry (obvious examples include the several objectors to sites at Camlork, Ballachrink, Braddan Road and Johnny Watterson's Lane). They are encouraged to make a joint case, as this could potentially save a good deal of repetition and reduce the length of the inquiry. If you are willing to co-operate with others in this way, but do not know their contact details, you should authorise Mr Johnstone to exchange your contact details with others of the same mind.

- 14 A programme for the inquiry will be prepared on the basis of the answers to the questionnaire. It is important that recipients of the questionnaire respond as quickly as possible, and no later than Friday 25 July, so that the inquiry programme can be arranged without delay. This will help give prospective participants reasonable notice of the date and time at which they and their witnesses will be expected to attend, to deal with their particular representations.
Exceptionally, persons who are unable to attend at their appointed time, for good reason, may be heard out of order.
- 15 A copy of the inquiry programme will be sent to each prospective participant. However, it may be necessary to amend the programme during the course of the inquiry, in which case the relevant participants will be notified. Details of the programme (and of any amendments to it) will be shown on the Cabinet Office website.
- 16 The Cabinet Office will respond to the evidence produced by members of the public orally at the inquiry, rather than by preparing written rebuttals. However, it may produce further written evidence in exceptional circumstances. It also undertakes to update and complete Site Appraisal Report Forms, and prepare Planning Briefs for specific development sites, by 9th August 2019. This material will be published on the Area Plan website as soon as possible.

Inquiry procedure

- 17 Generally, the inquiry will hear representations in order, according to the chapter, paragraph number or policy number in the draft Plan to which they relate. Consequently, persons who have made representations concerning a number of separate proposals or sites may have to attend the inquiry on a number of different occasions (or rely on their written submissions).

18 Objections to the omission of material from the draft plan will normally be heard at the end of our consideration of the relevant chapter or proposal. However, on some occasions, it may be expedient to depart from this arrangement. For each chapter, general matters which are in dispute will be considered first, followed by representations concerning site specific proposals as set out in the plan, and finally objections to the omission of text, or of proposals concerning particular sites.

Formal sessions

19 Most representations will be dealt with as follows. First, the persons objecting to a particular provision in the plan will present their cases, in turn. The representative of the Cabinet Office may ask questions about the evidence given and I may myself have questions.

20 Next it will be the turn of the Cabinet Office's representative to respond to the matters raised in the representations about the particular provision under discussion. Objectors who have made representations about that matter will have the opportunity, in turn, to question the Cabinet Office's witness(es). However, participants should try to avoid repeating questions that have already been asked. Finally, I will hear the cases of those (if any) who support that part of the Area Plan which is under consideration, and objectors may ask them questions. After all the evidence on either side has been examined, I will hear any closing submissions made in the light of the matters raised at the inquiry, first from the objector(s), then from the Cabinet Office's supporters (if any), and finally from the Cabinet Office's representative. We will then go on to consider the next objection or batch of objections.

General matters

21 There are certain general matters which will be relevant to a number of different objections, relating to various proposals. These include:

- 1 The amount of housing for which provision is to be made, having regard to the legal requirement for the Area Plan to be in general conformity with the Strategic Plan; recent information about trends in population size and household numbers; and the vacancy rate for existing residential properties. (The Inspector will seek advice from the Attorney General's Chambers and counsel to the Cabinet Office on the extent to which the Area Plan can lawfully depart from the requirements of the Strategic Plan, and the response will be posted on the Cabinet Office website).
- 2 The need for the residential development sites proposed, having regard to their capacity for additional housing at assumed densities; the net increase in housing supply that has already occurred during the Plan period; and the likely future housing gain from development on land not shown as development sites (including on land shown as Predominantly Residential, and from other 'windfall' developments).
- 3 Development Boundaries, having regard to the requirements of the Spatial Strategy in the Strategic Plan; and the treatment of substantially developed areas outside Existing Settlement Boundaries (e.g. Snugborough, Braddan Heights, Nobles Hospital, Mount Murray, and the Energy from Waste area).
- 4 The grey, green and social infrastructure needed to support development proposals, including the scale and cost of provision; existing infrastructure plans and programmes; and other mechanisms for securing and funding the requisite provision.

'Round table' sessions

- 22 These general matters may be considered at 'round table' or 'open forum' sessions, which would be in the form of structured discussions that the Inspector would lead. Such sessions have been shown to promote a constructive approach, and would be less formal than the adversarial alternative, which can become repetitive and time

consuming. By using them, it should be possible to reduce the need to go over the same ground repeatedly when dealing with specific sites.

- 23 Ideally, there should be no more than about 20 participants in a 'round table' hearing (including representatives of the Cabinet Office) so that the proceedings remain manageable; and so that the participants do not have to wait too long before they can contribute to the discussion. If too great a number of objectors wish to participate, it would perhaps be possible for groups of them, with similar views, to appoint spokespersons to represent them, and the Inspector would strongly encourage this. However, he will not deny anyone who wishes to contribute to the discussion the opportunity to do so, subject to the need to avoid repetition and maintain orderly proceedings.
- 24 The Inspector will issue an agenda in advance of each 'round table' session, which will be posted on the Cabinet Office website. Written evidence previously submitted will be taken as read. A representative of the Cabinet Office would have the final right of reply to the matters raised in each round table discussion.

Development briefs

The Cabinet Office has suggested that Development Briefs for certain sites could also be the subject of 'round table' discussions at the inquiry. It undertook to publish draft Development Briefs by 9th August 2019.

Inquiry documents

25 Certain core documents will be common to our consideration of a number of different matters. In addition the draft Area Plan, these will include:

- The Area Plan Evidence Papers Nos EP1 to EP9 as updated;
- The Cabinet Office's Area Plan Public Inquiry Papers Nos PIP1 to PIP5;
- The Site Assessment Report for each site to be considered by the inquiry;
- The Isle of Man Strategic Plan 2016;
- The Isle of Man Development Plan 1982;
- The Braddan Local Plan 1991;
- The Douglas Local Plan 1998;
- The Onchan Local Plan 2000;
- The Laxey and Lonan Local Plan 2005;
- The Area Plan for the South;
- Programme for Government 2016-2021;
- Vision 2020;
- The National Infrastructure Strategy;
- The Harbours Strategy 2018;
- The Biodiversity Strategy;
- The Active Travel Strategy and Action Plan;
- The Central Douglas Masterplan;
- 2016 Census Report;
- Meeting Our Population Challenges, Cabinet Office 2018;
- Isle of Man Employment Land Reviews 2015 and 2017;

- The latest Housing Land Availability Report;
- The Tynwald Committee Report on the Development of Unoccupied Urban Sites.

The Cabinet Office will place each of the Core Documents on the Cabinet Office website, and make hard copies available for inspection at certain public venues, and in the inquiry room. Venues are: the Welcome Centre at the Sea Terminal, the Tynwald Library, the Planning Appeals Office in Government Offices and at Local Authority Offices as agreed individually with the Clerks. If other documents are cited in evidence, the person introducing that evidence should ensure that the full text of the document in question is available for inspection during the relevant session(s) of the inquiry.

Site inspections

26 The Inspector will try to visit all of the sites which are the subject of objections or other representations prior to the inquiry. However, there may be some sites where he would need to enter private land to make an adequate inspection. There may also be some site visits at which inquiry participants would wish to be present to point out some particular feature which the Inspector might otherwise miss. In either of those cases, arrangements would be made for a further accompanied site visit during the course of the inquiry.

After the inquiry

27 After the inquiry, the Inspector will prepare a report. This will summarise the matters considered by the inquiry, and contain his recommendations, including any proposals that he may have for modifications to the draft Area Plan. He has no power to make decisions about the content of the Area Plan, and his recommendations will not be binding. His report will be submitted to the Cabinet Office for its consideration. It will then be for the Cabinet Office to adopt the Plan by Order, with or without modifications to the original draft. The adopted

Plan will not become effective however, until the Order has been approved by Tynwald.

Procedural queries

- 28 Any queries about the procedure to be followed at the inquiry can be raised with the Inspector through the Programme Officer.