

HDC Initial Response to Inspectors Initial Findings, April 2025

1. Horsham District Council (“the Council”) is writing in response to the Inspector’s interim findings letter (“IFL”) dated 4th April 2025, in which, at paragraph 6, the Inspector concludes that the Local Plan has failed the Duty to Cooperate (DtC) and advises the Council to withdraw the Plan from Examination.
2. Due to pre-election arrangements that were in place for the Rusper ward by-election that was held on 17th April 2025, we have been unable to publish the letter until today.
3. The Council is extremely disappointed with the conduct of the Examination and the Inspector’s conclusion for a number of reasons:

The procedure

4. As the Inspector is aware, the Council submitted the Horsham District Local Plan 2023-40 (“the Plan”) to the Planning Inspectorate on 26 July 2024. On 30 July, Luke Fleming BSc (Hons) MRTPI (“the Inspector”) was appointed to hold the Examination. The Council received the Inspector’s Preliminary Matters letter on 23 August 2024, and hearings were subsequently scheduled for December 2024 and January 2025 to fit with the Inspector’s other commitments and venue availability. On 14th October 2024, the Inspector provided guidance ([IDO3](#)) which included links to further information and a [Procedure Guide](#).
5. A full programme of hearings, was fixed covering all matters and issues. The Council booked a venue, arranged for live-streaming, instructed external witnesses and counsel for the duration.
6. It is important to note that many inspectors adopt an alternative procedure of setting dates for Stage 1 only to look specifically at matters fundamental to soundness and legal compliance. Not only does this mean that the Council’s preparation is focused exclusively on Stage 1 but it also means that the Council does not waste human and financial resources by making arrangements beyond Stage 1. Furthermore, it manages expectations of all involved and provides the Council with certainty and clarity once Stage 1 is complete.
7. On Day 3 of the hearings (12th December 2024), the Inspector stated that he had significant concerns regarding the soundness and legal compliance of the Plan. On 16th December 2024, he confirmed this to the Council in writing. This letter outlined that due to the seriousness of his concerns, it would not be efficient to hold the further hearings, and asked that the Programme Officer cancel them.
8. Pausing hearings on 12th December 2024 and cancelling further hearings on 16th December 2024 was short notice. Those decisions wasted time and money with little notice.
9. In the same letter, the Inspector also advised that he would set out his concerns on soundness and legal compliance in detail in a separate letter “as soon as I possibly can”.
10. The Council issued an open letter to the Inspector in response (also dated 16th December) setting out the Council’s understanding of the potential issues. It outlined that the Inspector’s concerns could be met by the Council proactively through further work on the

Plan and evidence base to expediently arrive at a solution within a six-month window, thus maintaining the public interest in having a Plan in place as soon as practicably possible.

11. Council officers continued to work on all action points thus far identified by the Inspector during the 3 days of hearings.
12. The Council was unfortunately not given clear timetables for completing further work requested by the Inspector. A list of Action Points arising from hearing sessions, which included the Council's self-imposed deadlines, was submitted to the Inspector on 13th December 2024. The Council provided responses to the substantive Action Points. However, the Inspector did not give permission to publish the list of Action Points until 6th March 2025, following requests from the Council to do so, and post-dating completion (and publication) of most of the Action Points.
13. The IFL was dated 4th April 2025, approximately 4 months after Examination hearings were suspended.
14. The delay has caused a number of issues for the Council which are detailed below.
15. The conduct of the running of the Examination from December 2024 has been poor and the delays inexcusable especially in the context of the importance of plan-making and the significant resources expended by the Council in the Plan process.

Communication

16. The Council was invoiced £14,209.83 for work undertaken in January 2025. The Council sought to understand from the Inspector (via the Programme Officer) when a response may be received. The Inspector had indicated that he had other commitments and therefore would respond by late February /early March at the earliest. Feedback from the Programme Officer dated 14th March indicated this would hopefully be 'very soon'.
17. In the event, the IFL was dated 4th April 2025, 3 weeks after the communication on 14th March.
18. There was no clear timetable and the vague timetable provided, setting expectations of 'very soon', was not even followed.
19. Communication was only received when prompted by the Council with no unprompted updates forthcoming from the Inspector.
20. The Council and stakeholders have been left in an unacceptable state of limbo.

Adherence to the Planning Inspectorate Code of Conduct

21. Section 3 of the **Planning Inspectorate Code of Conduct**¹ states that (inter alia) the following principle applies specifically to those taking formal decisions in the course of their duties:

Decision-makers must avoid unnecessary delay in reaching decisions and recommendations: *Decision-makers should not be dilatory in completing work assigned to them and, where not governed by a statutory timetable, should make every reasonable effort to ensure that decisions and recommendations are made as soon as possible after the relevant evidence has been considered.*

22. The Council's position is that there was unnecessary and unexplained delay in conflict with the Code of Conduct. It is further noted that the Inspectorate website states in its introduction on 'Examining local plans'² that "*in carrying out the examination, the Inspector will be conscious of the benefits of having a robust and up to date plan adopted as quickly as possible and will apply the principles of openness, fairness and impartiality.*"

Appropriately dealing with early soundness concerns

23. Having regard to paragraphs 3.5 and 3.6 of the Procedure Guide for Local Plan Examinations³, it is considered normal practice for any potential fundamental flaws in the Plan, evidence base or compliance with the Duty to Cooperate to be raised with the LPA as soon as possible. In the first instance this is likely to involve writing to the LPA to ask for further explanation or information. In some cases, it may also be necessary to hold one or more early hearing session(s) focused on the Inspector's concerns, thereby allowing the Inspector to pause the examination ahead of scheduling a full programme of hearings, or to request additional work from the Council.
24. Furthermore, paragraph 3.9 of the Procedure Guide refers to instances where an Inspector decides that one or more key matters raise substantive issues which are likely to affect the progress and timing of the rest of the examination. In such cases, the guidance suggests it is most effective for those matters to be dealt with in a first block of hearings, and for the Inspector to consider them before setting out how the examination will continue.
25. In addition, paragraph 9.5 states that if a plan raises complex technical issues, the Inspector may decide to hold a technical seminar as part of the examination. Given the water neutrality issue has many technical complexities, this approach could have been appropriate to aid the Inspector's full understanding of these.
26. Such hearings also would have allowed the Inspector to hear from, for example, the Environment Agency and neighbouring authorities who could have provided direct evidence to the Inspector.

¹ <https://www.gov.uk/government/publications/code-of-conduct/code-of-conduct#decision-makers>

² <https://www.gov.uk/guidance/local-plans#examining-local-plans>

³ <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice/procedure-guide-for-local-plan-examinations#section-3-initial-assessment-and-organisation-of-the-hearing-sessions>

27. Between the appointment of the Inspector and the commencement of the Local Plan Hearings no such correspondence was received. Furthermore, no specialised or focused scheduling of hearings in stages or blocks was organised.
28. Furthermore, it is also considered that all relevant bodies and local authorities should have been invited to attend the Hearing sessions considered to be relevant to the DtC considerations – the Inspector did not invite them or allow them to attend in a formal capacity, to understand the representations in more detail.
29. Whilst it is recognised that not all issues in a local plan examination may immediately come to light, it is simply not understood what new evidence came to light in the three days of hearings which points to such fundamental flaws in the plan that could not have been previously identified, given the evidence has not, in essence, changed. It is however noted that the Inspector did draw upon third party responses to Matters Issues and Questions in the three hearings days. In the event that these responses were the primary trigger for the Inspector's concerns, there was still a clear window of opportunity for concerns to have been raised by the Inspector with the Council, prior to the commencement of the hearings. This would have saved both the Council, and the Inspector significant time and resources, both of which are funded by the taxpayer, and prevented inconvenience, time and business costs to other examination participants.

Clarity of decisions and transparency of process

30. The Planning Inspectorate's Customer Charter sets out in Section 1 a series of promises to its customers. One of these is to:
- *Make well-reasoned and informed decisions across all areas of business.*
31. Linked to the Code of Conduct as referred to above, the Council's position is that there have been ongoing failures. At the hearing sessions, the Inspector on several occasions stated or suggested that he had serious concerns, but did not elaborate on these or clearly articulate his reasons in a way that would have allowed the Council to address them. Clarification was finally dated 4th April 2025.
32. As set out above, the work to respond to Action Points was accompanied by no clear timetable. This was surprising given paragraph 5.4 of the Procedure Guide for Local Plans states that where an Inspector decides it is necessary to ask the LPA and/or other participant(s) to prepare further written information or evidence on a particular topic, a deadline will be set for its receipt.
33. The Council contends that the Customer Charter has been breached.

Consistency of advice from the Planning Inspectorate

34. The Council has exercised diligence in liaising with the Inspectorate to help ensure the submission of a sound local plan. The Council has held one unilateral and two joint (with neighbouring local authorities) Advisory Meetings to address potential soundness and legal compliance issues. These were as follows:
- Advisory meeting with Matthew Birkinshaw, 08.01.2021
 - Joint advisory meeting with Jerry Youle and Richard Hunt, 06.09.2022
 - Joint advisory meeting with Louise Gibbons, 21.06.2023

35. Whilst the advice given by the respective inspectors in these meetings is without prejudice, there is a clear discrepancy in the Horsham District Local Plan Inspector's views on Water Neutrality matters. This is all the more obvious when the same issues have been considered in Crawley Borough (with the plan now adopted), and Chichester District Council (no main modifications in relation to Water Neutrality identified).
36. Furthermore, in advisory meetings held, no legal issues with DtC were raised by the Planning Inspectorate.

Impact of the delays

37. The Council, as well as many other interested parties, has been greatly impacted by the inexplicably long delay in receiving any substantive reasons for the Inspector's decision to halt examination proceedings. Whilst the Council's contention is that the plan could still proceed, the lack of certainty has meant that the Council has been unable to effectively plan for any future work programme for either continuation of the current Examination or should it be necessary, work required to commence a new plan. Four months have been wasted.
38. There are, similarly, ramifications for decision-making on planning applications, given there has been no clarity on weight to be ascribed to the emerging Plan for four months. Meanwhile, our adopted Local Plan (Horsham District Planning Framework, 2015) is now nine years old.
39. The Council also draws to your attention that the development industry has also faced significant uncertainty as a result of this delay, and therefore face challenges in determining the best course of action for their own land interests. This delay therefore goes directly against the government's aim of unlocking growth.
40. The Council further contends that the ongoing delay on the part of the Planning Inspectorate works against the Government's commitment to achieving universal local plan coverage, and therefore boosting housing supply.⁴ We note the letter issued to the Inspectorate on 30 July 2024 by the Minister of State, Matthew Pennycook, setting out the Government's expectations on the duration of examinations, and to which our Local Plan Inspector has directly drawn attention.⁵ Whilst this relates to the timescales for further work to be undertaken by a LPA, it makes clear that delays of more than six months are not usually supported, It is therefore unfortunate (and ironic) that the Inspectorate has itself delayed by almost four months any decision or direction which would enable any further work on the Plan or evidence base to proceed or for the Council to consider its next steps.

Impact on neighbourhood plans

⁴ Ministerial Statement: Building the homes we need (12 December 2024) - <https://questions-statements.parliament.uk/written-statements/detail/2024-12-12/hcws308>; NPPF paragraphs 234-236 - https://assets.publishing.service.gov.uk/media/67aafe8f3b41f783cca46251/NPPF_December_2024.pdf

⁵ <https://assets.publishing.service.gov.uk/media/66aa157b0808eaf43b50dad5/minister-pennycook-to-chief-executive-of-planning-inspectorate.pdf>

41. The delay has also impacted Neighbourhood Plans being prepared in Horsham District on which significant time and resources have already been spent.
42. In Horsham District there are four neighbourhood plans waiting to go to referendum. These referenda have already been significantly delayed due to the Position Statement from Natural England that required that the Plans demonstrate water neutrality.
43. The Council has therefore been unable to provide the affected Parishes with effective advice or clear timescales for the next steps. They are understandably concerned and frustrated. The local MP has now been involved and is raising questions with the Council directly.

The Inspectors Findings Letter

44. Given that the Inspector programmed a full schedule of hearings, given that Advisory meetings did not raise DtC (or other) issues and given that the Inspector gave no indication prior to the hearings that he had DtC concerns, the Council was shocked to note his conclusions in the IFL dated 4th April 2025.
45. The Council does not agree that it failed in the duty to cooperate. The Council engaged thoroughly, actively and continuously with numerous bodies on a regular basis. The fact is that neither the Council, nor any interested body or neighbouring authority, was satisfied that a developer-led, high level proposal, lacking any substantive or technical detail could reasonably offer a solution that was, post Regulation 19 stage, capable of being resolved with any reasonable degree of certainty and within a reasonable timescale having regard to the need to submit and adopt the plan within a timescale that succeeded in meeting Government objectives. On a point of fact, we highlight that the Inspector implied (paragraphs 65-66 of his letter) that delivery of the Buck Barn scheme ('Strategic Allocation HA5) would utilise a private supply borehole: this is incorrect as the proposed scheme would utilise not boreholes but 'peak over threshold harvest' principles, requiring major infrastructure in the form of on-site reservoirs, and (on the basis of evidence before the Inspector) without precedent.
46. Having regard to all representations which were made by site promoters and statutory undertakers at the time and the quality of the information, which was reasonably available, further procrastination could not be justified and extending discussions would not have been warranted given the public interest implications of further delay. This view is strengthened by the lack of planning applications made offering such purported solutions. This was not, in the Council's view a failure in its duty to co-operate, but the legitimate exercise of its discretion to proceed to examination on the basis of the information reasonable available to it as a means of justifying its allocations and planned trajectory (bearing in mind that housing delivery is but one, albeit extremely important, component of the Plan).
47. There is, in the Council's view, no evidence to show that further discussions with relevant authorities pursuant to the DtC would or could have taken the position materially and substantially any further.
48. All interested parties agreed that a strategic scheme was required (SNOWS). Other Inspectors have accepted that position and significant progress has been and is being made on delivering that scheme.

49. Unfortunately, the Inspector's position on the Plan has created new complications for the SNOWS team to address regarding access for applications in Horsham, which may as a consequence further delay the launch of the offsetting scheme, impacting several other local authorities as well as Horsham, ultimately stifling the development so crucially needed across Horsham and the North West Sussex area as a whole.

Next Steps

50. The Council regrets that it is forced to the view that it has been treated unfairly with regards the approach taken to examining its Local Plan due to delays, poor communication and lack of transparency.
51. The public interest has not been well served. Furthermore, this will be exacerbated given the resulting uncertainties with SNOWS in the absence of the proposed allocations and the unexpected void the withdrawal of the Plan would bring.
52. The Council is seriously considering its next steps. At this stage, the Council is continuing to review the contents of your letter and consider all options. Any decision to withdraw the Local Plan is a matter for the Council as a whole, and would need to be considered at a future meeting of the full Council. Further updates on next steps will therefore be provided in due course.
53. In the meantime, the Council reiterates its concerns regarding process, its disappointment at the findings of the Inspector and its recommendations for the conduct of Examinations going forward as has previously been highlighted to PINS in a letter dated 26 March 2025
54. The Council has been left in a state of limbo for over three months and has found it impossible to conduct any meaningful local plan work (on a current or new plan) in the absence of any direction or reasoning from our Plan Inspector. The public interest is not best served by this extended delay in the absence of any compelling reasons, and it is also not conducive to good use of the Council's (or others') resources.

Yours sincerely,

Barbara Childs
Director of Place
Horsham District Council