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20 December 2019

Dear Ed,

EXAMINATION OF THE WITCHFORD NEIGHBOURHOOD PLAN

I have now had the opportunity to discuss with the Examiner, Mr Biggers, the contents of your email of 13 December in response to his email of 12 December. This letter aims to clarify his position and revise the invitation to comment into a number of open questions.

The Examiner is acutely aware of the independent nature of his role. However, the NPIERS guidance to qualifying bodies, LPAs and examiners produced in 2017 following extensive discussions between a working group of examiners, RTPI, RICS and the Government and which I attach, does allow for an Examiner to offer the LPA and particularly the Qualifying Body the opportunity to respond to the Reg. 16 representations, which is what Mr Biggers wanted to do. (Para 1.11.3 and 1.11.4 of the guidance refers).

He understands that in ECDC submitting its own letter at the Reg. 16 stage you indicated that overall the Basic Conditions were met and the plan could proceed to examination. Notwithstanding that and given that six of the representations raise objections to the plan expressly stated in terms of the Basic Conditions, Mr Biggers considered that in the interests of natural justice and to ensure that the examination process was fair and balanced the Parish Council and possibly ECDC may still want to comment further on the points raised. However, in the interests of making this more straightforward Mr Biggers has issued the questions below.

He accepts that there is a considerable evidence base available for the Witchford Plan but this does not in all cases answer the points raised by the Reg. 16 representations. The NPPG states that:

"If the examiner requires any additional information, such requests and responses should be made publicly available by local planning authorities in a timely fashion to ensure the fairness and transparency of the examination process". Paragraph: 056 Reference ID: 41-056-20180222

Mr Biggers hopes that in securing answers to the following points the need for a hearing might be avoided. The issue in Witchford is slightly complicated by the withdrawal of the emerging Local Plan and the fact that the adopted Local Plan 2015 cannot now deliver a 5 year housing supply in the district.

At the end of the day, the Examiner's aim is to issue an examination report, including modifications as necessary, which ensures that the Plan and its policies and proposals meet the Basic Conditions. The result of this for the Plan, if it proceeds to be 'made', is that it should be secure from legal challenge.

The points which he is inviting the Parish and the District Council to respond to and which include clarifying points as allowed for in the guidance (paragraph 1.14.3 refers) are as follows:

1. The evidence base in respect of the housing requirement given to the Parish Council has been challenged by Reg 16 respondents. The NPPG requires there to be a satisfactory evidence base for the plan's policies. If this does not exist then there is conflict with the basic condition to have regard to national policy and guidance. I therefore wish to know how the requirement of 252 units for

Witchford was arrived at. Is it derived from the objectively assessed need figure provided by the Government for East Cambs of 598 dwellings per annum? Alternatively is it derived from the 2019 Housing Land Supply 5 year requirement of 6451 dwellings? If neither, please explain how the figure for Witchford is in general conformity with the development strategy for East Cambs. In other words, can 252 units (330 as provided for in the plan) be deemed to be a reasonable requirement for the parish up to 2031? (ECDC best to answer)

2. The Basic Conditions require the WNP to be in general conformity with the strategic policies of the adopted Local Plan. Reg 16 representations have raised concerns that the strategic policies of the adopted ECLP particularly Growth 1, Growth 2 and Growth 4 are no longer up to date as the plan cannot provide a 5 year housing supply and in seeking to conform to these the WNP is itself out of date. Am I correct in assuming that while the quantity Growth 1 and the allocations Growth 4 may have been deemed to be out of date in recent appeal decisions the spatial strategy in Growth 2 and providing the spatial strategy for Witchford is still appropriate and being applied? (ECDC best to answer)
3. What is the current position with the three allocated sites?
 - Clearly the eastern end of the WFDH1 site is under construction and I note from the Council's online Public Access that reserved matters have been permitted for WFDH3 South of Main Street but in respect of the balance of WFDH1 at the west end and WFDH2 are these still at outline stage or have reserved matters applications been submitted?
 - When did work actually commence on site WFDH1?
 - I need this information to arrive at a decision in terms of the challenge from the Reg 16 reps that SEA/HRA should have been carried out plus to test the allocation policies against the NPPF requirement of plans that they give clear and unambiguous advice. (ECDC best to answer)
4. The Basic Conditions require that the plan does not breach EU obligations and in particular to consider whether there are significant environmental effects necessitating an SEA and whether individually or in combination there would be significant effects on European sites. There are strong Reg 16 representations that, in combination, the allocated sites could adversely impact on the European sites and that therefore an Appropriate Assessment should have been carried out. I note that the conclusion of the screening opinion was that because the three allocations had been assessed through the planning application process and no significant environmental effects had been identified that SEA /HRA on the WNP did not need to be carried out and that the statutory consultees had agreed with this conclusion.

What I would like to know is how the in-combination effects of the allocations together with smaller anticipated windfall over the plan period have been considered. (ECDC best to answer)

5. The HRA 2018 carried out in respect of the emerging Local Plan, now withdrawn, reportedly identified two in-combination impacts on the European sites ie increased disturbance from recreation and impacts on water quality in the Ouse Washes. The Water Cycle Study 2017 ostensibly shows that a much higher level of development in Witchford than that proposed in the WNP would not impact on water quality but I cannot see from the screening opinion where the other in-combination impact in terms of disturbance from recreation is dealt with other than to say that of all the East Cambs settlements Witchford is the furthest from the designated sites. I would like clarification on this point. It would additionally be helpful to the examination if a further letter could be obtained from Natural England corroborating that in their opinion the two in-combination impacts would not be aggravated by the total level of development proposed in the WNP and that therefore HRA is not required.

6. Were alternative site options assessed during the plan preparation process or was it a case that the three intended allocations, each with outline permission at the time, adequately met the housing requirement and therefore alternatives were not considered? (Parish Council best to answer).
7. Legislation makes it clear that neighbourhood plans should not include policies or proposals relating to land outside their area. In testing policy WNPC1 in this regard I would like to know whether there is a specific proposal included in the Infrastructure Investment Plan for improvements to pedestrian and cycle accessibility across the A10/A142 junction. The ECLP at GROWTH 3 suggests there might be. I note the Parish Council has prepared a paper proposing possible solutions but has a scheme been designed? (ECDC best to answer).

We are obviously very aware that both Councils and individuals involved will have leave over Christmas and New Year. Mr Biggers is content that a reply date of around Friday 10 January would be workable as he in the meantime will be progressing other elements of the examination report on policies not directly affected by the major Reg 16 representations.

Yours sincerely,



Penny O'Shea
Principal Director