

INDEPENDENT EXAMINATION OF THE WAREHAM NEIGHBOURHOOD DEVELOPMENT PLAN

EXAMINER: Bob Yuille MSc DipTP MRTPI

Sue Bellamy
Purbeck District Council

Mr. K. W. T. Critchley
Wareham Neighbourhood Plan Steering Group

Examination Ref: 05/BY/WNP

10 September 2019

Dear Ms Bellamy and Mr Critchley

WAREHAM NEIGHBOURHOOD DEVELOPMENT PLAN EXAMINATION

Further to my letter of 12 August and the responses to my questions of 22 and 30 July 2019, I have given careful consideration to your responses. I have also considered the responses of Mr Senescall, dated 22 August 2019, at Carter Jonas and local resident Mrs Baggs, dated 14 August 2019.

I have assessed the more detailed legal and practical implications of handling your proposed revisions. My starting point is to be clear about the status of these proposed revisions. Having considered the matter carefully, I must conclude that they have no formal status: it simply represents the modified views of the Qualifying Body (QB) subsequent to the submission of the Plan for examination.

Unlike the process with respect to the examination of Local Plans, where consultation on 'main modifications' during the examination routinely takes place as a consequence of statutory provisions, there are no such procedures envisaged for neighbourhood plans. In my view, the limited circumstances where changes or modifications to a submitted Plan might be put forward by the QB would be where the examiner explicitly asks for them based on identified legal shortcomings (including those relating to the Basic Conditions). This might be, for example, where as part of formulating modifications, the examiner has determined it would be helpful to have some suggested wording from the QB or have them comment on his/her wording. Even then, this approach would be constrained by the general principle that there is only so far a modification may go before it starts to introduce a new approach which has not been subject to consultation. In that case the default is that the policy should be deleted as it is not capable of repair through the examination process. Paragraph 10(3) of Schedule 4B to Town and Country Planning Act 1990 (as amended) ('the 1990 Act') clearly sets out the very limited range of circumstances in which a modification may be recommended. It does not include where a new plan policy has been introduced.

It is clear from the narrow framing of the legislation that the Plan I am obliged to examine is the one formally submitted by the QB at the outset. It is apparent that many, if not most, of your proposed revisions are not amenable to being incorporated into the submitted Plan at this stage as I am unaware of any legal, policy or practice guidance which would guide such a process. In the very rare instances examiners have asked for discrete modifications to be advertised during the examination, this has been driven by an external factor beyond the control of the QB, such as the impact of a new legal precedent occurring during the examination or a significant change in national policy. In this instance apart from the ongoing examination of the Local Plan (which is not an uncommon occurrence), there are no such external factors. The changes can by no means be considered discrete and they were not submitted at my request based on any identified shortcomings.

At the very least, the Examination would have to be suspended whilst the major proposed revisions were consulted upon. Furthermore, consideration would also have to be given as to whether the Strategic Environmental Assessment and Habitats Regulation Assessment would require updating as a result of these proposed revisions. However, given the extent of these revisions, I am not inclined towards a view that such a suspension would be appropriate.

An alternative may be the formal withdrawal of the Plan as a whole and its resubmission in a revised form. This latter approach would be my preferred course of action. It seems to me to be the most pragmatic way forward, as in any event, it will be necessary to consult upon the significant revisions that you propose. It would also allow you to assess the Plan against the revised National Planning Policy Framework and Planning Practice Guidance, thus ensuring that the Plan is fully up to date with regard to the latest national policies and advice.

Therefore, I consider the principal and most appropriate route to rectify the Plan is to withdraw it under paragraph 2(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended). I am of course content to consider any other options you might identify, albeit I cannot readily envisage any alternative to withdrawal other than to continue to examine the Plan in the form it was originally submitted, which in my opinion is unlikely to result in a positive outcome.

In the interests of transparency, may I prevail upon you to ensure a copy of this letter is placed on both the local authority and Town Council websites.

Thank you in advance for your assistance.

Your sincerely

Bob Yuille

Examiner