

## INDEPENDENT EXAMINATION OF FARNHAM NEIGHBOURHOOD PLAN

EXAMINER: DEREK STEBBING B.A. (Hons), Dip. E.P., MRTPI

Alice Knowles  
Waverley Borough Council

Iain Lynch  
Farnham Town Council

Via email

Examination Ref: 01/DAS/FNPR

02 April 2019

Dear Ms Knowles and Mr Lynch

### FARNHAM NEIGHBOURHOOD PLAN REVIEW (MODIFICATION PROPOSAL)

Following the submission of the Farnham Neighbourhood Plan Review ('the Plan') for examination, I have three initial procedural points I wish to raise in relation to the documentation provided and initial stage of the examination, which all relate to the nature of the modification proposal.

#### **Regulation 17(e)(ii) Statement**

I am not at this stage satisfied that I have received a complete submission of the draft Plan and accompanying documentation.

Under the Neighbourhood Planning (General) Regulations 2012 (as amended)<sup>1</sup>, Regulation 17(e)(ii) requires the local authority to set out a view on whether or not the modifications contained in the modification proposal are so significant or substantial as to change the nature of the neighbourhood development plan which the modification proposal would modify, giving reasons for this opinion.

I have not been able to locate the Regulation 17(e)(ii) statement. I would be grateful if Waverley Borough Council (WBC) could please provide this statement to me at the earliest opportunity.

#### **Regulation 15(1)(f) Statement**

I have an issue which requires clarification in relation to the Regulation 15(1)(f) statement provided by the Qualifying Body (QB), Farnham Town Council.

I have read the statement provide by the QB as part of its Regulation 15 submission, which addresses the same matters as those above i.e. whether or not the modifications contained in the modification proposal are so significant or substantial as to change the nature of the neighbourhood development plan which the modification proposal would modify, giving reasons for this opinion.

The QB's statement is entitled 'Minor (non-material) updates' and within the document under the heading 'How are these changes regarded by Farnham Town Council?' it states, '*Council determined prior to the Regulation 14 Consultation that the changes proposed were **minor and non-material** (my emphasis) and did not change the nature of the Plan. The changes which have been made since*

---

<sup>1</sup> In particular, see amendments made by the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017.

*the Regulation 14 Neighbourhood Plan (including the deletion of two potential housing site options) has not changed this view*. I am not clear why the term 'minor and non-material' has been used? To place this in context, in summary, there are effectively 3 ways to update a 'made' neighbourhood plan:

1. If the changes to be made to a plan are 'not material', then the local planning authority can simply modify the plan accordingly, with the consent of the qualifying body. Consultation, examination and referendum are not needed<sup>2</sup>.
2. If the changes made are not 'significant and substantial' as to change the nature of the plan, then the new procedure is followed in Schedule A2 to the Planning and Compulsory Purchase Act 2004<sup>3</sup>, and the plan would not need to be subject to a referendum in order to be made.
3. If the changes are 'significant and substantial' as to change the nature of the plan, the proposal must be considered as if there was no neighbourhood plan in place i.e. it would go through the same process as if it were the original plan for that area including a referendum (i.e. the Schedule 4B procedure to the Town and Country Planning Act 1990).

If the QB genuinely considered the changes to be minor and non-material, the process under point 1 could have been followed? It seems to me quite clear that the intention of the QB is for this draft plan to be considered under 2. above. Accordingly, can the QB please confirm in writing that it considers there are changes that are material albeit, in its view, not significant or substantial as to change the nature of the Plan?

I will need to give careful consideration as to whether anyone might have been prejudiced by the terms of the QB's statement. To this end, I would also like to see a copy of the statement made at Regulation 14(a)(v).

This leads to my third point, which is the judgement I must make as an examiner as to whether the modification proposal is significant or substantial.

### **Preliminary Assessment**

The first task for the examiner under Paragraph 10(1) of Schedule A2 is to make a determination on whether the modifications contained in the draft plan are so significant or substantial as to change the nature of the neighbourhood development plan which the draft plan would replace. In order to do this, I will consider the nature of the existing Plan, alongside the representations and the statements on the matter made by the QB and WBC<sup>4</sup>.

As noted above, in the absence of the Regulation 17(e)(ii) statement, I do not have all the information necessary to make this determination, and I am still reading the extensive representations (233 in total) made on the Plan. Nonetheless, based on the information I have reviewed to date, I will need to give very careful consideration to points 2. and 3. above. It may also be necessary to hold a procedural meeting in due course in order to discuss this matter further. If that proves to be the case, I will advise you as soon as possible.

Once I am in a position to make a determination under Paragraph 10(1), I will seek to provide if appropriate an indication of the relevant examination timetable, including the timing of my site visit,

---

<sup>2</sup> See section 4(1) - (3) of the Neighbourhood Planning Act 2017, which amends section 61M of the Town and Country Planning Act 1990, and PPG Reference ID: 41-085-20180222.

<sup>3</sup> See Section 4(4) - (10) of the Neighbourhood Planning Act 2017 and PPG Reference ID: 41-085-20180222.

<sup>4</sup> See PPG Reference ID: 41-086-20180222.

and whether the examination will be dealt with solely by written representations or, additionally, a hearing session will be required.

In the meantime, if you have any process questions related to the conduct of the examination which you would like me to address, please do not hesitate to contact the office team in the first instance.

In the interests of transparency, may I prevail upon you to ensure that a copy of this letter and any responses to the questions that I have raised, are placed on both the local authority and Town Council websites.

Thank you in advance for your assistance.

Your sincerely

*Derek Stebbing*

Examiner