

## INDEPENDENT EXAMINATION OF THE WARFIELD NEIGHBOURHOOD PLAN

EXAMINER: Jill Kingaby BSc(Econ) MSc MRTPI

Jason Mawer  
Clerk to Warfield Parish Council

Matt Lunn  
Bracknell Forest Council

Examination Ref: 01/JK/WNP

Via email

16 May 2019

Dear Mr Mawer and Mr Lunn

### WARFIELD NEIGHBOURHOOD PLAN EXAMINATION

Following the submission of the Warfield Neighbourhood Plan (the Plan) for examination, I have read the submission Plan, dated October 2018, and the supporting background evidence including the responses to the Regulation 16 consultation exercise.

Before I proceed any further with the Examination, I must draw the Parish Council's attention to my concern that the submission Plan does breach and is not compatible with EU Regulations. As Bracknell Forest Council pointed out, in its letter to me (as the Examiner) of 2 April 2019, the inclusion of a site allocation (Policy WNP2 - for approximately 235 dwellings at Hayley Green) means that a Habitats Regulation Assessment (HRA) of the Neighbourhood Plan is required. I am aware that screening for Strategic Environmental Assessment (SEA) and HRA was carried out in 2016, and it was concluded that there were unlikely to be significant effects on the integrity of European sites (notably the Thames Basin Heaths Special Protection Area) from the Plan.

However, that screening exercise preceded the court case *People over Wind and Peter Sweetman v Coillte Teoranta*<sup>1</sup> wherein the Court of Justice of the EU ruled that mitigation measures could not be taken into account at the screening stage of an appropriate assessment. Having regard for that court judgment, I consider that full appropriate assessment of the Warfield Neighbourhood Plan is now necessary to meet the EU Regulations, and achieve compliance with the Basic Condition for neighbourhood planning. The Sweetman judgment was issued comparatively recently, in June 2018, and I appreciate that it necessitates a significant change in approach to the application of SEA/HRA processes. It is clearly inconvenient timing for the production and examination of the Plan, but I must request that up-to-date and full appropriate assessment is now undertaken. This will require a pause to the Examination, whilst the new work is carried out in accordance with the statutory requirements and then submitted to me.

The Regulation 16 responses have also raised a wide range of comments on the submission Plan. I note that Bracknell Forest Council has made a significant number of proposed changes to policies in the Plan. It would assist me if the Parish Council would inform me whether or not it agrees with the

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<sup>1</sup> People over Wind & Sweetman v Coillte Teoranta Case C-323/17. View at:

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30ddf571da66f02d449d9f60cc9f39bf8846.e34KaxiLc3qMb40Rch0SaxyNch10?text=&docid=200970&pageIndex=0&doclang=EN&mode=lst&dir=&oc=first&part=1&cid=628325>

proposed changes. It may be appropriate for further liaison between the two parties to produce a Statement of Common Ground, setting out precise wording where any changes are agreed.

If the Parish Council also wishes to make changes to the submission Plan in response to other respondents' Regulation 16 comments, please advise me accordingly.

I note that a number of respondents alleged that the consultation process had been "inadequate" and unsympathetic to residents, especially in the vicinity of Hayley Green. It would be helpful for the Parish Council to respond to me in respect of these claims.

In addition, at both the Regulation 14 and Regulation 16 stage, it is unclear how many responses were received from statutory bodies. The Consultation Statement includes a table on Page 3 which indicates that 5 "Other" parties responded at the Pre-Submission Consultation stage, but I am unsure what is meant by "Other". I would appreciate having reassurance that all bodies were consulted and, in particular, that any responses from Natural England have been publicised.

I look forward to hearing from you soon, and obtaining your views as to how long this additional work is likely to take.

In the interests of transparency, may I prevail upon you to ensure a copy of this letter is placed on both the Parish Council and the Bracknell Forest Council websites?

Thank you in advance for your assistance.

Yours sincerely

*Jill Kingaby*

Examiner