

North Somerset Core Strategy Consequential Changes Examination

Inspector: Jonathan Bore BA MRTPI DipUD

Ref:

Mr Michael Reep
Planning Policy Manager
North Somerset Council
Town Hall
Walliscote Grove Road
Weston-super-Mare
BS23 1UJ

c/o Robert Young
Programme Officer
North Somerset CS Consequential Changes Examination
PP15
Town Hall
Walliscote Grove Road
Weston-super-Mare
BS23 1UJ

tel: 07948 832257

email: robert.young@n-somerset.gov.uk

23 May 2016

Dear Mr Reep

SUSTAINABILITY APPRAISAL SUPPLEMENTARY REPORT

I refer to the above document and to the appended email from Neil Tiley of the Pegasus Group. At this point I wish to make the following comments and ask the Council and interested parties to bear these in mind.

There are four key points.

- (i) Sustainability Appraisal (SA) was carried out on the Core Strategy, including the spatial strategy represented by the since remitted policies, and reasonable alternatives were investigated at that time.
- (ii) The revised housing requirement was subject to a supplementary SA.
- (iii) The remitted policies the subject of this examination were not themselves found unlawful, but were remitted for practical reasons in case they needed to be changed to reflect the new housing requirement.
- (iv) The Core Strategy has been in place for some time and completions and permissions constitute a substantial proportion of the housing requirement.

These circumstances appear to limit the scope for developing substantially different alternatives at this stage. The question of whether the supplementary SA amounts to retrospective justification for a predetermined strategy also needs to be considered in this context.

The PPG states that modifications to the SA should be considered only where appropriate and proportionate to the level of change being made to the Local Plan. I will be considering the supplementary SA in the light of this guidance.

The Council should have regard to the period referred to in the *Environmental Assessment of Plans and Programmes Regulations 2004* as regards the consultation bodies referred to in the Regulations.

http://www.legislation.gov.uk/uksi/2004/1633/pdfs/uksi_20041633_en.pdf

To meet the requirements of the regulations, the Council should reconsider the consultation period for the supplementary report. Five weeks from the start date would take us to the hearings. I intend to continue with the hearings on the specified date, and will be happy to take submissions regarding the supplementary SA report at the hearings, but will consider keeping the Examination open for a further limited period in the event that there are any matters relating to the supplementary SA that cannot be considered at the hearings.

Representations on the content of the Supplementary SA Report should be made in the first instance to the local planning authority.

Yours sincerely

Jonathan Bore

Inspector

From: Neil Tiley
Sent: Thursday, May 19, 2016 4:09 PM
To: Robert Young
Cc: Daniel Weaver
Subject: Sustainability Appraisal Supplementary Report - Revised Other Remitted Policies

Thanks Robert,

I see the Council are intending to consult on the Sustainability Appraisal for 3 weeks and provide the responses to the Inspector. This raises further concerns as follows:

1. The Environmental Assessment of Plans and Programmes Regulations 2004 (Regulation 12-6) requires that “where a consultation body wishes to respond to a consultation under paragraph (5), it shall do so within the period of **5 weeks** beginning with the date on which it receives the responsible authority’s invitation to engage in the consultation” (my emphasis). The result is that consultation bodies are allowed to comment on the Sustainability Appraisal until 21st June and that as a result the Inspector may not have received all relevant material prior to the hearing session, let alone had the chance to consider these submissions.
2. The Environmental Assessment of Plans and Programmes Regulations 2004 (Regulation 13-3) requires that the period for public consultees to express their opinion “must be of such length as will ensure that the consultation bodies and the public consultees are given an effective opportunity to express their opinion on the relevant documents.” The current consultation period runs for only 3 weeks which is inconsistent with the consultation periods identified in North Somerset’s Statement of Community Involvement (March 2015) which identifies that each stage of the Local Plan will be subject to a minimum of 4 weeks consultation but normally 6 weeks and that if this unavoidably includes a major public holiday then a longer period will be given. During the proposed current consultation period there is a school holiday scheduled from 27th May to 6th June during which time many consultees will not be available to consider the additional material. Furthermore, given the length of the Sustainability Appraisal and its references back to many previous Sustainability Appraisals, each of which will need to be considered, 3 weeks is not considered an appropriate period for the consultation. Indeed, this limited period for consultation flies in the face of the Aarhus Convention and prejudices the ability for full consideration of the material by all participants.
3. The Council identify that they will forward any responses to the Inspector. However, the Examining Local Plans Practice Guidance (December 2013) identifies that “additional written material should not be put forward if not requested by the Inspector. For example, if the LPA wishes to produce topic papers, these should form part of the evidence base submitted with the Plan.” It goes on to identify that “LPAs and other participants should await specific instructions from the Inspector about what additional material, if any, is required”. Therefore, the additional Sustainability Appraisal material should not be accepted unless it was explicitly requested by the Inspector.

Furthermore, the issues previously identified are also of significant concern:

1. The additional Sustainability Appraisal identifies in paragraph 2.2 that “it was undertaken internally during May 2016”. This clearly identifies that the Sustainability Appraisal has not informed the resubmitted remitted policies which were submitted at the end of 2015/early 2016,

but rather that it has been used retrospectively to justify conclusions which had already been reached. This is contrary to the notion of a Sustainability Appraisal and contrary to the PAS Guidance, which identifies that “it can’t just be done as a looking back exercise at the end” and contrary to the NPPG (11-005).

2. The late publication of this additional material has resulted in significant volumes of abortive work by participants, which assuming the new material is accepted, is now obsolete.

I also have fundamental concerns with the additional Sustainability Appraisal as it fails to re-appraise any of the policies, and instead it simply re-iterates the Sustainability Appraisal of the submitted Core Strategy which sought to deliver a very different housing requirement in a very different policy context. Indeed, it assesses the impacts of constraint led policies on meeting a housing requirement which has increased by 50% as being identical or it fails to assess these at all. I will deal with these matters in a formal response if necessary.

Given that we do not believe that the additional material should be accepted by the Inspector and that even if it is there will not have been a satisfactory opportunity to respond, there is uncertainty in how participants should proceed in terms of preparing additional submissions. I do not wish to undertake further abortive or rushed work and so would appreciate a timely response from the Inspector regarding how he wishes to proceed.

All the best

Neil Tiley

Principal Planner

Pegasus Group